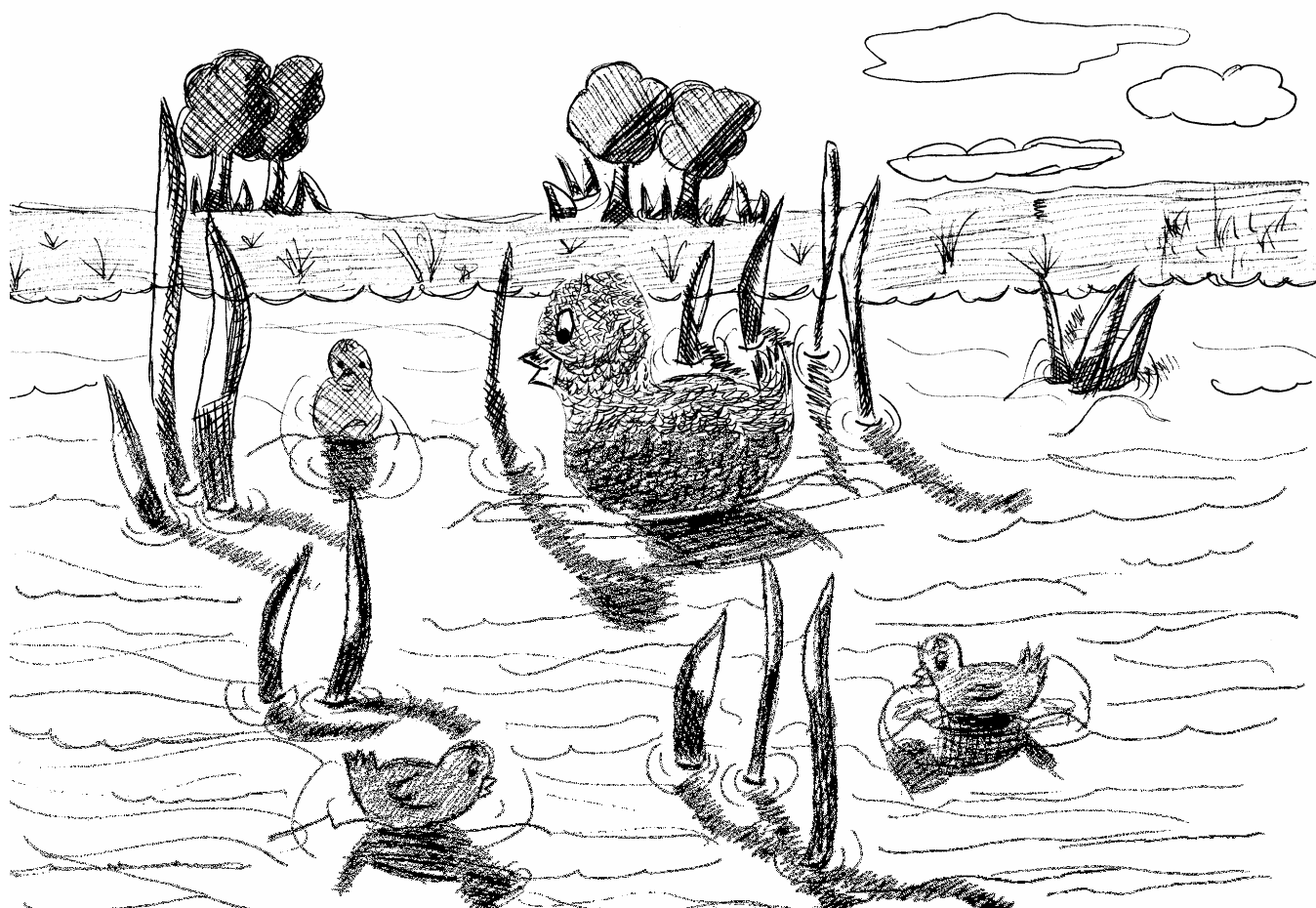

TEXAS REGISTER

Volume 32 Number 14

April 6, 2007

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Danielle Pelletier



School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

The artwork featured on the front cover is chosen at random. Inside each issue, the artwork is published on what would otherwise be blank pages in the *Texas Register*. These blank pages are caused by the production process used to print the *Texas Register*.

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THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments

Appointments for March 26, 2007

Appointed to be Judge of the 3rd Judicial District Court, Anderson/Henderson/Houston Counties, for a term until the next General Election and until his successor shall be duly elected and qualified, Mark Alan Calhoon of Palestine. Mr. Calhoon is replacing Judge Jim Powers who resigned.

Appointed to be Judge of the 430th Judicial District Court, Hidalgo County, pursuant to SB 1189, 79th Legislature, Regular Session, for a term until the next General Election and until his successor shall be duly elected and qualified, Thomas P. Wingate of Mission.

Appointed to be a member of the Family and Protective Services Council for a term to expire February 1, 2013, Debbie Epperson of Austin (replacing John Castle of Dallas whose term expired).

Appointed to be a member of the Family and Protective Services Council for a term to expire February 1, 2013, Linda Bell Robinson of Houston (Ms. Robinson is being reappointed).

Appointed to be a member of the Family and Protective Services Council for a term to expire February 1, 2013, Gigi Edwards Bryant of Austin (Ms. Bryant is being reappointed).

Appointed to be a member of the Texas State Board of Podiatric Medical Examiners for a term to expire July 10, 2011, Ana Urukalo, D.P.M. of Austin (replacing Bradford Glass, DPM of Midland whose term expired).

Appointed to be a member of the Texas State Board of Podiatric Medical Examiners for a term to expire July 10, 2011, Travis A. Motley, D.P.M. of Hurst (replacing Sandra Cuellar, DPM of Dallas whose term expired).

Appointed to be a member of the Texas State Board of Podiatric Medical Examiners for a term to expire July 10, 2011, Doris Couch of Burleson (Ms. Couch is being reappointed).

Designating Doris A. Couch of Burleson as President of the Texas State Board of Podiatric Medical Examiners for a term at the pleasure of the Governor. Ms. Couch is replacing Dr. Bradford Glass as president.

Appointed to be a member of the Advisory Board for Athletic Trainers for a term to expire January 31, 2009, Rebecca Spurlock of North Richland Hills (replacing Natalie Steadman of Lubbock whose term expired).

Appointed to be a member of the Advisory Board for Athletic Trainers for a term to expire January 31, 2013, Michael Alan Waters of Diboll (Mr. Waters is being reappointed).

Appointed to be a member of the Advisory Board for Athletic Trainers for a term to expire January 31, 2013, David R. Schmidt, M.D. of San Antonio (Dr. Schmidt is being reappointed).

Appointed to be Texas Commissioner of Insurance for a term to expire February 1, 2009, Michael Scott Geeslin of Austin. Mr. Geeslin is being reappointed.

Appointed to be a member of the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2008, Richard E. Garnett, Ph.D. of Fort Worth.

Appointed to be a member of the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2008, Margaret Hasse Cowen of San Antonio.

Appointed to be a member of the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2008, Opal Irvin of Dimebox.

Appointed to be a member of the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2009, Anna Penn Hundley of Dallas.

Appointed to be a member of the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2009, Manuel Macedonio Vela of Harlingen.

Appointed to be a member of the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2009, Frank Christian McCamant of Austin.

Appointed to be a member of the Texas Council on Autism and Pervasive Developmental Disorders for a term to expire February 1, 2009, Donna Nelson Geiger of Austin.

Appointed to the Aerospace and Aviation Advisory Committee for a term to expire at the pleasure of the Governor, Kevin Pagan of McAllen. Mr. Pagan is replacing Dick Azar of El Paso.

Designating Glenda Rubin Kane as Presiding Officer of the State Health Services Council for a term at the pleasure of the Governor. Mr. Kane is replacing Rudy Arredondo of Lubbock as presiding officer.

Designating David Weir of College Station as Chairman of the Advisory Board of Athletic Trainers for a term at the pleasure of the Governor. Mr. Weir is replacing Natalie Steadman as chairman of the board.

Rick Perry, Governor

TRD-200701203



THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following:
Requests for Opinions, Opinions, Open Records Decisions.

An index to the full text of these documents is available from
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. For information about pending requests for opinions, telephone 512-463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <http://www.oag.state.tx.us/opinopen/opinhome.shtml>.)

Request for Opinions

RQ-0576-GA

Requestor:

Ms. Belinda M. Griffin

Chair, Board of Regents

Texas Southern University

3100 Cleburne Avenue

Houston, Texas 77004

Re: Whether a member of the Legislature may provide insurance services to a state university (RQ-0576-GA)

Briefs requested by April 23, 2007

RQ-0577-GA

Requestor:

The Honorable Susan D. Reed

Bexar County Criminal District Attorney

Cadena-Reeves Justice Center

300 Dolorosa, Fifth Floor

San Antonio, Texas 78205-3030

Re: Whether section 133.154, Local Government Code, requires the collection of a \$37 fee for all cases filed in a statutory probate court, including mental health cases (RQ-0577-GA)

Briefs requested by April 23, 2007

For further information, please access the website at www.oag.state.tx.us or call the Opinion Committee at (512) 463-2110.

TRD-200701198

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: March 28, 2007

◆ ◆ ◆

Opinions

Opinion No. GA-0533

The Honorable Eddie Lucio, Jr.

Chair, Committee on International Relations and Trade

Texas State Senate

Post Office Box 12068

Austin, Texas 78711-2068

Re: Counties' alternatives for disposing of seized gambling contraband (RQ-0536-GA)

S U M M A R Y

Depending on the terms of the court order forfeiting eight-liner machines as gambling contraband, and assuming such machines meet the definition of surplus or salvage property under Local Government Code chapter 263, a county commissioners court may order the machines sold by competitive bid or auction. The commissioners court may adopt rules requiring the purchasers to remove the property to a jurisdiction in which its use is legal.

Opinion No. GA-0534

Mr. Adan Munoz, Jr.

Executive Director

Texas Commission on Jail Standards

Post Office Box 12985

Austin, Texas 78711

Re: Whether a county may deduct from a county-jail inmate's commissary account funds necessary to recover costs for medical expenses incurred during a previous incarceration in the county jail, for which the inmate is obligated to reimburse the county under Code of Criminal Procedure article 104.002(d) (RQ-0537-GA)

S U M M A R Y

A county may deduct from a county-jail inmate's account funds necessary to recover the costs of medical expenses incurred during a previous term of incarceration in the county jail, for which the inmate is required to reimburse the county under Code of Criminal Procedure article 104.002(d). The county must comply with applicable due-process requirements.

For further information, please access the website at www.oag.state.tx.us or call the Opinion Committee at (512) 463-2110.

TRD-200701197

Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: March 28, 2007



PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 4. AGRICULTURE

PART 1. TEXAS DEPARTMENT OF AGRICULTURE

CHAPTER 21. CITRUS

SUBCHAPTER A. CITRUS QUARANTINES

4 TAC §21.1, §21.8

The Texas Department of Agriculture (the department) proposes amendments to §21.1 and §21.8 concerning citrus quarantines. The amendments are proposed to add orange jasmine (also known as orange jessamine) (including both *Murraya exotica* L. and *M. paniculata* (L.) Jack.) to the list of regulated articles; consequently, growers, sellers or distributors of orange jasmine would be required to adhere to the same labeling and record-keeping requirements for citrus plants.

Section 21.1 defines terms used in Chapter 21, Subchapter A, and is amended to modify the definition of the term "regulated article" and to clarify reference language in the first paragraph of §21.1.

Section 21.8 defines the labeling requirements necessary to track and identify regulated articles, provides for an alternative to the labeling requirement, specifies administrative penalties that apply for non-compliance, and specifies requirements for record keeping to ensure that the regulated articles can be easily identified and stop-distribution, temporary seizure and destruction orders can be carried out as produced in Texas as specified in the Texas Agriculture Code §71.009 and §71.010. The amended labeling requirement will restrict conditions under which a non-rebuttable presumption is made that tag or label requirements have been violated and facilitate determination of whether any given orange jasmine were produced in Texas. An exemption is also added to clarify the department's intent that labeling requirements do not apply to a retail buyer, homeowner or end user grower. Citrus greening is one of the most threatening diseases of citrus and has seriously affected citrus production in a number of countries. In the United States, the disease was first detected in Florida in 2005. The proposed amendments will assist in keeping the citrus greening from entering Texas. Orange jasmine is not commonly grown in Texas, and apparently only 3 to 4 nurseries grow a few of these plants for sale.

Dr. Robert Crocker, Coordinator for Pest Management, Citrus and Biotechnology Programs, has determined that for the first five-year period the proposed amendments are in effect, there is no anticipated fiscal impact on state or local governments as a result of administration and enforcement of the sections.

Dr. Crocker also has determined that for each year of the first five years the proposed amendments are in effect, the public benefit anticipated as a result of administering and enforcing the amended sections will be the availability of a process for quickly determining if the orange jasmine plants were produced in Texas. Labeling of the orange jasmine plants would aid in enforcement of citrus quarantines to prohibit entry of plants from genus *Murraya* into Texas. Orange jasmine is the preferred host of an insect, called Asian citrus psyllid, *Diaphorina citri* Kuwayama (Homoptera: Psyllidae), which spreads the bacterium that causes the citrus greening disease. Orange jasmine also has been identified as a host of citrus greening.

There will be a cost to growers and retailers required to comply with the amendments. These costs cannot be determined at this time due to the variable record keeping and identification practices used in the industry. Most commercial nurseries currently label plants with some of the required information and can include additional information that may be required on the same label. Making changes/additions to labels may be accomplished at little or no additional cost. Nurseries also have the option of identifying the plants during production as prescribed within a "plan" as developed by the grower and approved by the department, in lieu of an identification tag or label. Most growers and retailers maintain sufficient information to meet record keeping requirements. Costs for additional record keeping cannot be determined because of the wide range of record keeping systems maintained by growers and retailers.

Comments on the proposal may be submitted to Dr. Robert L. Crocker, Coordinator for Integrated Pest Management, Citrus and Biotechnology Programs, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of the publication of the proposal in the *Texas Register*.

The amendments to §21.1 and §21.8 are proposed in accordance with the Texas Agriculture Code (the Code), §73.002, which provides for the state to use all constitutional measures to protect the citrus industry from destruction by pests and diseases; §71.009, which provides the department with the authority to adopt rules as necessary for the seizure, treatment, and destruction of plants, plant products, and other substances for the effective enforcement and administration of Chapter 71, relating to general control of horticultural diseases and pests.

The code that is affected by the proposal is Texas Agriculture Code, Chapters 71 and 73.

§21.1. Definitions.

In addition to the definitions set out in Texas Agriculture Code, Chapter 71 and this chapter of the Texas Administrative Code, the following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (5) (No change.)

(6) Regulated article--Orange jasmine (also known as orange jessamine) (including both *Murraya exotica* L. and *M. paniculata* (L.) Jack.) or any [Any] citrus plant or grown for the purpose of sale or distribution.

(7) - (10) (No change.)

§21.8. *Labeling Requirements and Non-Rebuttable Presumption.*

(a) General.

(1) (No change.)

(2) Unless satisfactory records that readily identify the articles as having been produced in Texas are provided, the [The] absence of a tag or label required by subsection (a) of this section creates a non-rebuttable presumption that the regulated article is a quarantined article and shall be destroyed in accordance with the applicable provisions of section 71.0091 of the Code.

(3) - (5) (No change.)

(b) Exemptions.

(1) (No change.)

(2) Identification. In lieu of identification tags during production, a nursery may develop a regulated article [citrus] identification plan, as approved by the department, that defines procedures and methods used to identify the regulated articles [citrus plants] under production at the location. Identification tags, as provided in this section, will be required once the regulated articles [citrus plants] are sold or distributed.

(3) (No change.)

(4) Retail buyers and end users are exempt from the requirements of this section.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 26, 2007.

TRD-200701162

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 463-4075



TITLE 10. COMMUNITY DEVELOPMENT

PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CHAPTER 5. COMMUNITY SERVICES PROGRAMS

SUBCHAPTER C. EMERGENCY SHELTER GRANTS PROGRAM

10 TAC §§5.204, 5.208, 5.211

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to §§5.204, 5.208, and 5.211, concerning the Emergency Shelter Grants Program. The

amended sections are proposed to address the application requirements, the process for review of applications, and program administration.

Mr. Michael Gerber, Executive Director, has determined that there will be no fiscal implications for the state and local government as a result of enforcing or administering the rule.

Mr. Gerber has also determined that for each year of the first five years the sections are in effect the public benefit anticipated as a result of enforcing the section will be to inform the public of the purpose and application requirements of the Emergency Shelter Grants Program. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the rule as proposed.

Comments on the proposal may be submitted to Mr. Jesse Mitchell, Manager, Community Services Section, Texas Department of Housing and Community Affairs, Post Office Box 13941, Austin, Texas 78711-3941, within seven days of this notice.

These sections are proposed pursuant to the authority of the Texas Government Code, Chapter 2306.

No other code, articles or statutes are affected by this section.

§5.204. *Application Requirements.*

(a) Eligibility Documentation: The following information must be included in each ESGP application. Failure to provide this documentation will deem the application ineligible for funding:

(1) Documentation of the [active] participation of a homeless or formerly homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient. [Active participation is defined as attendance at a minimum of 75% of the Board or policy making entity meetings during a 12 month period.] A copy of the section in the bylaws which authorizes the governing board or equivalent policymaking entity to make policies for the organization must also be included. Applicants who have not previously received ESGP funds from the Department are exempt from the requirement, but must comply with the requirement prior to the execution of a contract with the Department.

(2) - (3) (No change.)

(b) - (e) (No change.)

§5.208. *Process for Review of Applications.*

(a) - (b) (No change.)

(c) The Department will award bonus points for applicants from non-entitlement areas, for organizations requesting homelessness prevention funds, for single applicant organizations that previously have not received ESGP funds from the Department, and for documentation of a minimum of 75% participation by the homeless representative on the board of directors or other equivalent policymaking entity.

(d) - (g) (No change.)

§5.211. *Program Administration.*

Upon approval by the Board, Applicants receiving ESGP funds shall enter into and execute an agreement for the receipt of ESGP funds.

(1) - (4) (No change.)

(5) Waiver. The Board, in its discretion and within the limits of federal and state law, may waive one or more of these Rules if the Board finds that waiver is appropriate to fulfill the purposes or policies

of Chapter 2306, Texas Government Code, or for good cause, as determined by the Board.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 26, 2007.

TRD-200701170

Michael Gerber

Executive Director

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 475-4595



TITLE 16. ECONOMIC REGULATION

PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

SUBCHAPTER D. LOTTERY GAME RULES

16 TAC §401.302

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.302 (relating to Instant Game Rules). The purpose of the proposed amendments is to clarify agency practices and procedures relating to the commission's procedures to be established and followed when closing an instant game.

Subsection (j) has been amended by deleting reference to game "termination" and replacing it with the term, game "closing", and by deleting, "and prize claim period."

Subsection (j)(1) adds the following language, "...in accordance with an instant game closing procedure that defines the criteria used to monitor Instant Ticket sales performance and that identifies when instant games should be closed."

New subsections (j)(1)(A) and (B) set forth the requisites of the instant game closing procedure.

New subsection (j)(2) states that no tickets in an instant game may be sold after the instant game closing date.

Existing subsections (j)(2) and (j)(3) have been deleted in this proposal.

Finally, existing subsection (k) has been deleted in this proposal, and existing subsection (l) is renumbered as (k).

Kathy Pyka, Controller, has determined that for the first five-year period there will be no foreseeable implications relating to costs or revenues for state or local government as a result of enforcing these amendments. Any costs to the State could be absorbed by current resources. There will be no effect on large businesses, small businesses or micro-businesses. There will be no additional economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated impact on local employment.

Robert Tirloni, Products Manager, has determined that for each of the first five years the proposed amendments are in effect, the public benefit anticipated is clarification of agency practices

and procedures relating to the commission's procedures to be established and followed when closing an instant game.

Comments on the proposed amendments may be submitted to Deanne Rienstra, Assistant General Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630. Comments may also be submitted online at www.txlottery.org. The Commission will hold a public hearing on this proposal at 10:00 a.m. on April 20, 2007, at 611 E. 6th Street, Austin, Texas. Comments must be received within 30 days after publication of the proposed amendments in the Texas Register in order to be considered.

The amendments are proposed under Texas Government Code, §466.015, which provides the Texas Lottery Commission with the authority to adopt rules governing the operation of the lottery. The section is also proposed under Texas Government Code, §467.102, which provides the Commission with the authority to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

Texas Government Code, Chapter 466, is affected by this proposal.

§401.302. Instant Game Rules.

(a) - (i) (No change.)

(j) Game closing. [~~termination and prize claim period~~.]

(1) The executive director or his/her designee shall determine; ~~at any time;~~ the closing [~~may announce the termination~~] date for an individual instant game in accordance with an instant game closing procedure that defines the criteria used to monitor Instant Ticket sales performance and that identifies when instant games should be closed. [~~If this occurs, no tickets shall be sold past the termination date.~~]

(A) The procedure shall provide for the timely closing of an instant game after all top level prizes in the game have been claimed or on an earlier date as determined by the executive director.

(B) The procedure shall provide for ending ticket sales in an instant game no later than the 46th day after game closing procedures have been initiated.

(2) No tickets in an instant game may be sold after the instant game closing date.

[(2) Instant game prizes shall be claimed no later than 180 days after the "end-of-game" date as determined by the commission of the individual game.]

[(3) Any prize directly payable by the commission and not claimed within the period and manner provided in this section shall be used as provided by the State Lottery Act.]

[(k) Game report. Following the last day on which prizes may be claimed after termination of a game, the executive director or his/her designee shall prepare a report that shows, at a minimum, the total number of tickets sold and the number of prizes awarded in the game. The report shall be made available for public inspection.]

(k) [(4)] Governing law. In purchasing an instant game ticket, the lottery player agrees to comply with and abide by Texas law, all rules, procedures, and final decisions of the commission, and all procedures and instructions established by the executive director for the conduct of the instant game.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 26, 2007.

TRD-200701165

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 344-5113



16 TAC §401.307

The Texas Lottery Commission (Commission) proposes for public comment new Title 16, Part 9, Chapter 401, §401.307 (relating to "Pick 3" On-Line Game Rule). The Commission published the proposed repeal of existing Title 16, Part 9, Chapter 401, §401.307 relating to "Pick 3" On-Line Game Rule and a proposed new Pick 3 game rule in the December 29, 2006, issue of the *Texas Register* (31 TexReg 10488). At a public meeting on February 21, 2007, the Commission voted to withdraw that proposed rule. The Commission is now proposing another new Pick 3 on-line game rule. The Commission is proposing a new rule, rather than proposing amendments to the existing rule, in order to clarify language and eliminate unnecessary language throughout the rule.

Kathy Pyka, Controller, has determined that if the Sum It Up feature of the game is launched on November 11, 2007, the fiscal impact for each year of the first five years the rule amendment will be in effect is additional estimated cost to state government in the following amounts: FY 07, \$0.00M; FY 08, \$6.21M; FY 09, \$7.69M; FY 10, \$7.69M; FY 11, \$7.69M; and FY 12, \$7.69M; and estimated increased net revenue in the following amounts: FY 07, \$0.00M; FY 08, \$3.81M; FY 09, \$4.71M; FY 10, \$4.71M; FY 11, \$4.71M; and FY 12, \$4.71M. Ms. Pyka has determined that if the Sum It Up feature of the game is launched on January 27, 2008, the fiscal impact for each of the first five years the rule amendment will be in effect is additional estimated cost to state government in the following amounts: FY 07, \$0.00M; FY 08, \$4.58M; FY 09, \$7.69M; FY 10, \$7.69M; FY 11, \$7.69M; and FY 12, \$7.69M; and estimated increased net revenue in the following amounts: FY 07, \$0.00M; FY 08, \$2.81M; FY 09, \$4.71M; FY 10, \$4.71M; FY 11, \$4.71M; FY 12, \$4.71M. (The first five-year period for which the rule is in effect ends during fiscal year 2012; this fiscal note sets out the fiscal impact for a period that includes all of fiscal year 2012.) Regardless of launch date, there will be no effect on large businesses, small businesses or micro-businesses. There will be no additional economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated impact on local employment.

Robert Tirloni, Products Manager, has determined that for the first five-year period the proposed new Pick 3 on-line game rule will be in effect, the public benefit anticipated is additional revenue to the state and an opportunity for a wider variety of lottery games and features for players.

Comments on the proposed new rule may be submitted to Sarah Woelk, Special Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630. Comments may also be submitted online at www.txlottery.org. The Commission will hold a public hearing on this proposal at 10:00 a.m. on April 20, 2007, at 611 E. 6th Street, Austin, Texas 78701. Comments must be received within 30 days after publication of this proposed new rule in order to be considered.

The new rule is proposed under Texas Government Code, §466.015, which gives the Commission the authority to adopt rules governing the operation of the lottery, including the type of lottery games to be conducted. The section is also proposed under Texas Government Code, §467.102, which gives the Commission the authority to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

Texas Government Code, Chapter 466, is affected by this proposal.

§401.307. "Pick 3" On-Line Game Rule.

(a) Pick 3. The executive director is authorized to conduct a game known as "Pick 3." The executive director may issue further directives and procedures for the conduct of Pick 3 that are consistent with this rule. In the case of conflict, this rule takes precedence over §401.304 of this title (relating to On-Line Game Rules (General)).

(b) Definitions. When used in this rule, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) Play--A play other than a Sum It Up play consists of:

(A) the selection of a play type;

(B) the selection of a Pick 3 base play amount of \$.50, \$1, \$2, \$3, \$4 or \$5;

(C) the selection of a draw date and time;

(D) the selection of numbers in accordance with subsection (c) of this section; and

(E) the purchase of a ticket evidencing those selections.

(2) Sum It Up Play--A Sum It Up play consists of:

(A) the selection of the Sum It Up play type in connection with an exact order play, an any order play, an exact order/any order play, or a combo play;

(B) the selection of a Sum It Up base play amount of \$.50, \$1, \$2, \$3, \$4 or \$5; and

(C) the purchase of a ticket evidencing those selections.

(3) Playboard--A panel on a playslip containing three fields of numbers for use in selecting numbers for a Pick 3 play, with each field of numbers containing the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8 and 9.

(4) Playslip--An optically readable card issued by the commission for use in making selections for one or more Pick 3 plays.

(c) Play types

(1) Pick 3 may include the following play types: exact order, any order, exact/any order, combo, and Sum It Up.

(A) An "exact order" play is a winning play if the player's three single-digit numbers match in exact order the three single-digit numbers drawn in the applicable drawing.

(B) An "any order" play is a winning play if the player's three single-digit numbers match in any order the three single-digit numbers drawn in the applicable drawing.

(i) An any order play is a 3-way play when any order play is selected as the play type in connection with a set of three single-digit numbers that includes two occurrences of one single-digit number and one occurrence of one other single-digit number. A 3-way any order play involves three possible winning combinations.

(ii) An any order play is a 6-way play when any order play is selected as the play type in connection with a set of three single-digit numbers that includes a single occurrence of three different single-digit numbers. A 6-way any order play involves six possible winning combinations.

(iii) Any order play is not permitted in connection with a set of numbers that includes three occurrences of one single-digit number.

(C) An "exact order/any order" play is a winning play either if the player's three single-digit numbers match in exact order the numbers drawn in the applicable drawing or if the player's three single-digit numbers match in any order the numbers drawn in the applicable drawing.

(i) An exact order/any order play is a 3-way play when exact order/any order play is selected as the play type in connection with a set of three single-digit numbers that includes two occurrences of one single-digit number and one occurrence of one other single-digit number. An exact order/3-way any order play involves three possible winning combinations.

(ii) An exact order/any order play is a 6-way play when exact order/any order play is selected as the play type in connection with a set of three single-digit numbers that includes a single occurrence of three different single-digit numbers. An exact order/6-way any order play involves six possible winning combinations.

(iii) An exact order/any order play is not permitted in connection with a set of numbers that includes three occurrences of one single-digit number.

(D) A "combo" play combines all of the possible straight (exact) plays that can be played with the three single-digit numbers selected for the play.

(i) A combo play may be a 3-way combo play or a 6-way combo play.

(ii) 3-way combo play is combo play in connection with a set of three single-digit numbers that includes two occurrences of one single-digit number and one occurrence of one other single-digit number. A 3-way combo play involves three possible winning combinations.

(iii) 6-way combo play is combo play in connection with a set of three single-digit numbers that includes a single occurrence of three different single-digit numbers. A 6-way combo play involves six possible winning combinations.

(iv) Combo play is not permitted in connection with a set of numbers that includes three occurrences of one single-digit number.

(E) A Sum It Up play is a winning play if the sum of the player's three single-digit numbers is the same as the sum of the three single-digit numbers drawn in the applicable drawing. A Sum It Up play must occur in connection with a play of some other play type.

(2) The executive director shall determine a start date for Sum It Up play. The start date shall be no later than August 31, 2008. Otherwise, the executive director may allow or disallow any type of play described in this subsection. Currently available play types must be posted on the commission's web site.

(d) Plays and tickets

(1) A ticket may be sold only by an on-line retailer and only at the location listed on the retailer's license. A ticket sold by a person other than an on-line retailer is not valid.

(2) A Pick 3 play involves the selection of three single-digit numbers, with each selected from the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.

(3) The cost of an exact order play is the same as the Pick 3 base play amount selected for the play.

(4) The cost of an any order play is the same as the Pick 3 base play amount selected for the play.

(5) The cost of an exact order/any order play is:

(A) \$1 if the Pick 3 base play amount selected for the play is \$.50;

(B) \$2 if the Pick 3 base play amount selected for the play is \$1;

(C) \$4 if the Pick 3 base play amount selected for the play is \$2;

(D) \$6 if the Pick 3 base play amount selected for the play is \$3;

(E) \$8 if the Pick 3 base play amount selected for the play is \$4; or

(F) \$10 if the Pick 3 base play amount selected for the play is \$5.

(6) The cost of a combo play is determined by multiplying the Pick 3 base play amount selected for the play by the number of winning combinations possible with the three single-digit numbers selected for the play.

(7) The cost of a Sum It Up play is the same as the Sum It Up base pay amount selected for the Sum It Up play. The cost of a Sum It Up play is in addition to the cost of the connected Pick 3 play.

(8) The cost of a ticket is determined by the total cost of the plays evidenced by the ticket.

(9) A player may complete up to five playboards on a single playslip.

(10) A person may select numbers for a play by:

(A) using a self-service terminal;

(B) using a playslip;

(C) requesting a retailer to use Quick Pick; or

(D) requesting a retailer to manually enter numbers into an on-line terminal.

(11) A player may select the play type, base play amount, and drawn date and time for a play by:

(A) using a self-service terminal;

(B) using a playslip; or

(C) requesting a retailer to manually enter the selections.

(12) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually is not valid.

(13) An on-line retailer may accept a request to manually enter selections or to make quick-pick selections only if the request is made in person.

(14) A player may purchase one or more plays for any one or more of the next 12 drawings after the purchase.

(15) An on-line retailer shall issue a ticket as evidence of one or more plays. A ticket must show the numbers, play type and base play amount selected for each play; the number of plays, the draw date(s) for which the plays were purchased; and the security and transaction serial numbers. Tickets must be printed on official Texas Lottery paper stock.

(16) A playslip has no monetary value and is not evidence of a play.

(17) The purchaser is responsible for verifying the accuracy of the numbers and other selections shown on a ticket.

(18) The commission shall establish a time period before each drawing during which tickets may not be sold.

(19) An unsigned winning ticket is payable to the holder or bearer of the ticket if the ticket meets all applicable validation requirements.

(e) Cancellation of plays

(1) An on-line retailer may cancel a Pick 3 play only in accordance with the following provisions:

(A) The ticket evidencing the play must have been sold at the retail location at which it is cancelled;

(B) The on-line retailer must have possession of the ticket evidencing the play;

(C) All Pick 3 plays evidenced by a single ticket must be cancelled;

(D) Cancellation may occur no later than 60 minutes after sale of the ticket evidencing the play;

(E) Cancellation must occur before the beginning of the next draw break after the sale of the ticket evidencing the play; and

(F) Cancellation must occur before midnight on the day the ticket evidencing the play was sold.

(2) An on-line retailer must retain the ticket and the cancellation receipt for the play(s) evidenced by that ticket for at least 30 days after the cancellation.

(f) Drawings

(1) Pick 3 drawings shall be held twice a day, Monday through Saturday, at 12:27 p.m. and 10:12 p.m., central time. The executive director may change the drawing schedule, if necessary.

(2) At each Pick 3 drawing, three single-digit numbers shall be drawn. Each single-digit number will be drawn from a set that includes a single occurrence of all ten single-digit numbers (0, 1, 2, 3, 4, 5, 6, 7, 8, and 9).

(3) Numbers drawn and the order in which the numbers are drawn must be certified by the commission in accordance with the commission's drawing procedures.

(4) The numbers selected in a drawing and the order of the numbers selected in the drawing shall be used to determine all winners for that drawing.

(5) Each drawing shall be witnessed by an independent certified public accountant. All drawing equipment used shall be examined by a commission drawings representative and the independent certified public accountant immediately before each drawing and immediately after each drawing.

(g) Prizes

(1) Prize payments shall be made upon completion of commission validation procedures.

(2) A person may win only one prize per play per drawing. A player who holds a valid ticket for a winning play is entitled to the highest prize for that play.

(3) A Sum It Up play is a separate play from the exact order play, any order play, exact order/any order play, or combo play with which it is connected.

(4) The executive director may temporarily increase any prize set out in this paragraph for promotional or marketing purposes.

(5) A person who holds a valid ticket for a winning exact order play is entitled to a prize as shown.
Figure: 16 TAC §401.307(g)(5)

(6) A person who holds a valid ticket for a winning 3-way any order play is entitled to a prize as shown.
Figure: 16 TAC §401.307(g)(6)

(7) A person who holds a valid ticket for a winning 6-way any order play is entitled to a prize as shown.
Figure: 16 TAC §401.307(g)(7)

(8) A person who holds a valid ticket for a winning exact order/3-way any order play is entitled to a prize as shown.
Figure: 16 TAC §401.307(g)(8)

(9) A person who holds a valid ticket for a winning exact order/6-way any order play is entitled to a prize as shown.
Figure: 16 TAC §401.307(g)(9)

(10) A person who holds a valid ticket for a winning combo play is entitled to a prize as shown.
Figure: 16 TAC §401.307(g)(10)

(11) A person who holds a valid ticket for a winning Sum It Up play is entitled to a prize as shown. A Sum It Up prize is in addition to a prize, if any, for the exact order play, any order play, exact order/any order play, or combo play to which the Sum It Up play is connected.
Figure: 16 TAC §401.307(g)(11)

(h) The executive director may authorize promotions in connection with Pick 3. Current promotions must be posted on the commission's web site.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 26, 2007.

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Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 344-5113



16 TAC §401.316

The Texas Lottery Commission (Commission) proposes for public comment new Title 16, Part 9, Chapter 401, §401.316 (relating to "Daily 4" On-Line Game Rule). The new rule will authorize a new on-line lottery game to be played in Texas. The Commission published a proposed new Daily 4 on-line game rule in the December 29, 2006, issue of the *Texas Register* (31 TexReg

10492). At a public meeting on February 21, 2007, the Commission voted to withdraw the proposed rule. The Commission is again proposing another new Daily 4 on-line game rule.

Kathy Pyka, Controller, has determined that if the game is launched on September 30, 2007, the fiscal impact for each year of the first five years the rule amendment will be in effect is additional estimated cost to state government in the following amounts: FY 07, \$0.00M; FY 08, \$35.07M; FY 09, \$37.99M; FY 10, \$37.99M; FY 11, \$37.99M; and FY 12, \$37.99M; and estimated increased net revenue in the following amounts: FY 07, \$0.00M; FY 08, \$6.14M; FY 09, \$6.65M; FY 10, \$6.65M; FY 11, \$6.65M; and FY 12, \$6.65M. Ms. Pyka has determined that if the game is launched on December 16, 2007, the fiscal impact for the first five years the rule amendment will be in effect is additional estimated cost to state government in the following amounts: FY 07, \$0.00M; FY 08, \$27.03M; FY 09, \$37.99M; FY 10, \$37.99M; FY 11, \$37.99M; and FY 12, \$37.99M; and estimated increased net revenue in the following amounts: FY 07, \$0.00M; FY 08, \$4.73M; FY 09, \$6.65M; FY 10, \$6.65M; FY 11, \$6.65M; FY 12, \$6.65M. (The first five-year period for which the rule is in effect ends during fiscal year 2012; this fiscal note sets out the fiscal impact for a period that includes all of fiscal year 2012.) Regardless of launch date, there will be no effect on large businesses, small businesses or micro-businesses. There will be no additional economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated impact on local employment.

Robert Tirloni, Products Manager, has determined that for the first five-year period the proposed new Daily 4 on-line game rule will be in effect, the public benefit anticipated is additional revenue to the state and an opportunity for a wider variety of lottery games and features for players.

Comments on the proposed new rule may be submitted to Sarah Woelk, Special Counsel, Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630. Comments may also be submitted online at www.txlottery.org. The Commission will hold a public hearing on this proposal at 10:00 a.m. on April 20, 2007, at 611 E. 6th Street, Austin, Texas 78701. Comments must be received within 30 days after publication of this proposed new rule in order to be considered.

The new rule is proposed under Texas Government Code, §466.015, which gives the Commission authority to adopt rules governing the operation of the lottery, including the type of lottery games to be conducted. The section is also proposed under Texas Government Code, §467.102, which gives the Commission authority to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

Texas Government Code, Chapter 466, is affected by this proposal.

§401.316. "Daily 4" On-Line Game Rule.

(a) Daily 4. The executive director is authorized to conduct a game known as "Daily 4." The executive director may issue further directives and procedures for the conduct of Daily 4 that are consistent with this rule. In the case of conflict, this rule takes precedence over §401.304 of this title (relating to On-Line Game Rules (General)).

(b) Definitions. When used in this rule, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

(1) Play--A play other than a Sum It Up play consists of:

(A) the selection of a play type;

(B) the selection of a Daily 4 base play amount of \$.50, \$1, \$2, \$3, \$4 or \$5;

(C) the selection of a draw date and time;

(D) the selection of numbers in accordance with subsection (d) of this section; and

(E) the purchase of a ticket evidencing those selections.

(2) Sum It Up Play--A Sum It Up play consists of:

(A) the selection of the Sum It Up play type in connection with a straight play, a box play, a straight/box play, a combo play, a front-pair play, a mid-pair play, or a back-pair play;

(B) the selection of a Sum It Up base play amount of \$.50, \$1, \$2, \$3, \$4 or \$5; and

(C) the purchase of a ticket evidencing those selections.

(3) Playboard--A panel on a playslip containing four fields of numbers for use in selecting numbers for a Daily 4 play, with each field of numbers containing the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8 and 9.

(4) Playslip--An optically readable card issued by the commission for use in making selections for one or more Daily 4 plays.

(c) Play types

(1) Daily 4 may include the following play types: straight, box, straight/box, combo, front-pair, mid-pair, back-pair, and Sum It Up.

(A) A "straight" play is a winning play if the player's four single-digit numbers match in exact order the four single-digit numbers drawn in the applicable drawing.

(B) A "box" play is a winning play if the player's four single-digit numbers match in any order the four single-digit numbers drawn in the applicable drawing.

(i) A box play may be a 4-way box play, a 6-way box play, a 12-way box play, or a 24-way box play.

(I) A box play is a 4-way box play when box play is selected as the play type in connection with a set of four single-digit numbers that includes three occurrences of one single-digit number and one occurrence of one other single-digit number. A 4-way box play involves four possible winning combinations.

(II) A box play is a 6-way box play when box play is selected as the play type in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and two occurrences of another single-digit number. A 6-way box play involves six possible winning combinations.

(III) A box play is a 12-way box play when box play is selected as the play type in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and one occurrence of two other single-digit numbers. A 12-way box play involves 12 possible winning combinations.

(IV) A box play is a 24-way box play when box play is selected as the play type in connection with a set of four single-digit numbers that includes a single occurrence of four different single-digit numbers. A 24-way box play involves 24 possible winning combinations.

(ii) Box play is not permitted in connection with a set of numbers that includes four occurrences of one single-digit number.

(C) A "straight/box" play is a winning play either if the player's four single-digit numbers match in exact order the numbers drawn in the applicable drawing or if the player's four single-digit numbers will match in any order the numbers drawn in the applicable drawing. The prize amount is greater if the player's four single-digit numbers match in exact order the numbers drawn in the applicable drawing.

(i) A straight/box play may be a 4-way straight/box play, a 6-way straight/box play, a 12-way straight/box play, or a 24-way straight/box play.

(I) A straight/box play is a 4-way straight/box play when straight/box play is selected in connection with a set of four single-digit numbers that includes three occurrences of one single-digit number and one occurrence of one other single-digit number. A 4-way straight/box play involves four possible winning combinations.

(II) A straight/box play is a 6-way straight/box play when straight/box play is selected in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and two occurrences of another single-digit number. A 6-way straight/box play involves six possible winning combinations.

(III) A straight/box play is a 12-way straight/box play when straight/box play is selected in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and one occurrence of two other single-digit numbers. A 12-way straight/box play involves 12 possible winning combinations.

(IV) A straight/box play is a 24-way straight/box play when straight/box play is selected in connection with a set of four single-digit numbers that includes a single occurrence of four different single-digit numbers. A 24-way straight/box play involves 24 possible winning combinations.

(ii) Straight/box play is not permitted in connection with a set of numbers that includes four occurrences of one single-digit number.

(D) A "combo" play combines into a single play all of the possible straight plays that can be played with the four single-digit numbers selected for the play.

(i) A combo play may be a 4-way combo play, a 6-way combo play, a 12-way combo play, or a 24-way combo play.

(I) 4-way combo play is combo play in connection with a set of four single-digit numbers that includes three occurrences of one single-digit number and one occurrence of one other single-digit number. A four-way combo play involves four possible winning combinations.

(II) 6-way combo play is combo play in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and two occurrences of another single-digit number. A six-way combo play involves six possible winning combinations.

(III) 12-way combo play is combo play in connection with a set of four single-digit numbers that includes two occurrences of one single-digit number and one occurrence of two other single-digit numbers. A 12-way combo play involves 12 possible winning combinations.

(IV) 24-way combo play is combo play in connection with a set of four single-digit numbers that includes a single occurrence of four different single-digit numbers. A 24-way combo play involves 24 possible winning combinations.

(ii) Combo play is not permitted in connection with a set of numbers that includes four occurrences of one single-digit number.

(E) Pair play

(i) A "front-pair" play is a winning play if the player's two single-digit numbers match in exact order the first two single-digit numbers drawn in the applicable drawing.

(ii) A "mid-pair" play is a winning play if the player's two single-digit numbers match in exact order the second and third single-digit numbers drawn in the applicable drawing.

(iii) A "back-pair" play is a winning play if the player's two single-digit numbers match in exact order the last two single-digit numbers drawn in the applicable drawing.

(F) A Sum It Up play is a winning play if the sum of the player's two or four single-digit numbers, as applicable, is the same as the sum of the four single-digit numbers drawn in the applicable drawing. A Sum It Up play must occur in connection with a play of some other play type.

(2) The executive director may allow or disallow any type of play described in this subsection. Currently available play types must be posted on the commission's web site.

(d) Plays and tickets

(1) A ticket may be sold only by an on-line retailer and only at the location listed on the retailer's license. A ticket sold by a person other than an on-line retailer is not valid.

(2) The selection of numbers for a straight play, a box play, a straight/box play, or a combo play involves the selection of four single-digit numbers, with each selected from the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.

(3) The selection of numbers for a front-pair play, a mid-pair play, or a back-pair play involves the selection of two single-digit numbers, with each selected from the numbers 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9.

(4) The cost of a play varies according to the play type selected for the play and the base play amount selected for the play.

(A) The cost of a straight play is the same as the base play amount selected for the play.

(B) The cost of a box play is the same as the base play amount selected for the play.

(C) The cost of a straight/box play is:

(i) \$1 if the base play amount selected for the play is \$.50;

(ii) \$2 if the base play amount selected for the play is \$1;

(iii) \$4 if the base play amount selected for the play is \$2;

(iv) \$6 if the base play amount selected for the play is \$3;

(v) \$8 if the base play amount selected for the play is \$4; or

(vi) \$10 if the base play amount selected for the play is \$5.

(D) The cost of a combo play is determined by multiplying the base play amount selected for the play by the number of

winning combinations possible with the four single-digit numbers selected for the play.

(E) The cost of a front-pair, mid-pair, or back-pair play is the same as the base play amount selected for the play.

(F) The cost of a Sum It Up play is the same as the Sum It Up base play amount selected for the Sum it Up play. The cost of a Sum It Up play is in addition to the cost of the Daily 4 play with which the Sum It Up play is connected.

(5) The cost of a ticket is determined by the total cost of the plays evidenced by the ticket.

(6) A player may complete up to five playboards on a single playslip.

(7) A person may select numbers for a play by:

(A) using a self-service terminal;

(B) using a playslip;

(C) requesting a retailer to use Quick Pick; or

(D) requesting a retailer to manually enter numbers into an on-line terminal.

(8) A player may select the play type, base play amount, and draw date and time for a play by:

(A) using a self-service terminal;

(B) using a playslip; or

(C) requesting a retailer to manually enter the play type.

(9) Playslips must be completed manually. A ticket generated from a playslip that was not completed manually is not valid.

(10) An on-line retailer may accept a request to manually enter selections or to make quick-pick selections only if the request is made in person.

(11) A player may purchase one or more plays for any one or more of the next 12 drawings after the purchase.

(12) An on-line retailer shall issue a ticket as evidence of one or more plays. A ticket must show the numbers, play type and base play amount selected for each play; the number of plays, the draw date(s) for which the plays were purchased; and the security and transaction serial numbers. Tickets must be printed on official Texas Lottery paper stock.

(13) A playslip has no monetary value and is not evidence of a play.

(14) The purchaser is responsible for verifying the accuracy of the numbers and other selections shown on a ticket.

(15) The commission shall establish a time period before each drawing during which tickets may not be sold.

(16) An unsigned winning ticket is payable to the holder or bearer of the ticket if the ticket meets all applicable validation requirements.

(e) Cancellation of plays

(1) An on-line retailer may cancel a Daily 4 play only in accordance with the following provisions:

(A) The ticket evidencing the play must have been sold at the retail location at which it is cancelled;

(B) The on-line retailer must have possession of the ticket evidencing the play;

(C) All Daily 4 plays evidenced by a single ticket must be cancelled;

(D) Cancellation may occur no later than 60 minutes after sale of the ticket evidencing the play;

(E) Cancellation must occur before the beginning of the next draw break after the sale of the ticket evidencing the play; and

(F) Cancellation must occur before midnight on the day the ticket evidencing the play was sold.

(2) An on-line retailer must retain the ticket and the cancellation receipt for the play(s) evidenced by that ticket for at least 30 days after the cancellation.

(f) Drawings

(1) Daily 4 drawings shall be held twice a day, Monday through Saturday, at 12:27 p.m. and 10:12 p.m., central time. The executive director may change the drawing schedule, if necessary.

(2) At each Daily 4 drawing, four single-digit numbers shall be drawn. Each single-digit number will be drawn from a set that includes a single occurrence of all ten single-digit numbers (0, 1, 2, 3, 4, 5, 6, 7, 8, and 9).

(3) Numbers drawn and the order in which the numbers are drawn must be certified by the commission in accordance with the commission's drawing procedures.

(4) The numbers selected in a drawing and the order of the numbers selected in the drawing shall be used to determine all winners for that drawing.

(5) Each drawing shall be witnessed by an independent certified public accountant. All drawing equipment used shall be examined by a commission drawings representative and the independent certified public accountant immediately before each drawing and immediately after each drawing.

(g) Prizes

(1) Prize payments shall be made upon completion of commission validation procedures.

(2) A person may win only one prize per play per drawing. A player who holds a valid ticket for a winning play is entitled to the highest prize for that play.

(3) A Sum it Up play is a separate play from the play with which it is connected.

(4) The executive director may temporarily increase any prize set out in this subsection for promotional or marketing purposes.

(5) A person who holds a valid ticket for a winning straight play is entitled to a prize as shown.
Figure: 16 TAC §401.316(g)(5)

(6) A person who holds a valid ticket for a winning 4-way box play is entitled to a prize as shown.
Figure: 16 TAC §401.316(g)(6)

(7) A person who holds a valid ticket for a winning 6-way box play is entitled to a prize as shown.
Figure: 16 TAC §401.316(g)(7)

(8) A person who holds a valid ticket for a winning 12-way box play is entitled to a prize as shown.
Figure: 16 TAC §401.316(g)(8)

(9) A person who holds a valid ticket for a winning 24-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(9)

(10) A person who holds a valid ticket for a winning straight/4-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(10)

(11) A person who holds a valid ticket for a winning straight/6-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(11)

(12) A person who holds a valid ticket for a winning straight/12-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(12)

(13) A person who holds a valid ticket for a winning straight/24-way box play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(13)

(14) A person who holds a valid ticket for a winning combo play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(14)

(15) A person who holds a valid ticket for a winning front-pair, mid-pair, or back-pair play is entitled to a prize as shown.

Figure: 16 TAC §401.316(g)(15)

(16) A person who holds a valid ticket for a winning Sum It Up play is entitled to a prize as shown. A Sum It Up prize is in addition to a prize, if any, for a straight play, a box play, a straight/box play, or a combo play.

Figure: 16 TAC §401.316(g)(16)

(h) Start of Play. The executive director shall determine the start date for Daily 4. The start date shall be no later than August 31, 2008.

(i) The executive director may authorize promotions in connection with Daily 4. Any current promotions must be posted on the commission's web site.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 26, 2007.

TRD-200701167

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 344-5113



TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 109. BUDGETING, ACCOUNTING, AND AUDITING

SUBCHAPTER AA. COMMISSIONER'S RULES CONCERNING FINANCIAL ACCOUNTABILITY RATING SYSTEM

19 TAC §109.1002

The Texas Education Agency (TEA) proposes an amendment to §109.1002, concerning financial accountability ratings. The pro-

posed amendment would update the appeal process for the rating system beginning with Fiscal Year 2006-2007, in accordance with House Bill (HB) 1, 79th Texas Legislature, Third Called Session, 2006.

Senate Bill 218, 77th Texas Legislature, 2001, added the TEC, §§39.201 - 39.204, requiring the commissioner of education, in consultation with the comptroller, to adopt rules for implementation and administration of the financial accountability rating system. 19 TAC Chapter 109, Budgeting, Accounting, and Auditing, Subchapter AA, Commissioner's Rules Concerning Financial Accountability Rating System, adopted to be effective October 20, 2002, establishes provisions that detail the purpose, ratings, types of ratings, criteria, reporting, and sanctions for the financial accountability rating system, in accordance with Senate Bill 218, 77th Texas Legislature, 2001.

The specific rule that establishes indicators applicable to school district financial accountability ratings is 19 TAC §109.1002, Financial Accountability Ratings. This rule includes the financial accountability rating form entitled "School FIRST - Rating Worksheet" that explains the indicators that the TEA will analyze to assign school district financial accountability ratings. This rule also includes a process whereby a district could submit a request for the TEA to review a district's preliminary rating. In accordance with HB 1, Third Called Session, 2006, this financial accountability rating appeal process is to include review by an external review panel.

The proposed amendment to 19 TAC §109.1002, would add language in subsection (e)(2)(A) to modify the appeal process to allow for the review of a district's appeal by an external review panel. The new language would address the type of appeals that would be considered and the role of the TEA and the external review panel. As directed by HB 1, the proposal specifies that the external review panel's recommendation would be forwarded to the commissioner and that the commissioner's decision would be final and not subject to challenge. The amendment to 19 TAC §109.1002 is proposed in consultation with the comptroller.

Adrain Johnson, associate commissioner for school district services, has determined that, for the first five-year period the amendment is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Dr. Johnson has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the amendment will be having in place a system to ensure that school districts will be held accountable for the quality of their financial management practices and achieve improved performance in the management of their financial resources. The proposed amendment would provide districts an objective review process. There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the proposed amendment.

The public comment period on the proposal begins April 6, 2007, and ends May 6, 2007. Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Policy Coordination Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to rules@tea.state.tx.us or faxed to (512) 463-0028. All requests for a public hearing on the proposed amendment submitted under the Administrative Procedure Act must be received by the commissioner of education

not more than 15 calendar days after notice of the proposal has been published in the *Texas Register*.

The amendment is proposed under the Texas Education Code (TEC), §39.202, which directs the commissioner to develop and implement a financial accountability rating system, and TEC, §39.204, which authorizes the commissioner of education to adopt rules as necessary for the implementation and administration of a financial accountability rating system. In addition, the TEC, §39.301, authorizes the commissioner by rule to provide a process for a school district or open-enrollment charter school to challenge an agency decision relating to an academic or financial accountability rating that affects the district or school. The TEC, §39.301, specifies that the commissioner rule must provide for the appointment of a committee to make recommendations on a challenge made to an agency decision relating to an academic or financial accountability rating.

The amendment implements the Texas Education Code, §§39.202, 39.204, and 39.301.

§109.1002. *Financial Accountability Ratings.*

(a) - (d) (No change.)

(e) The TEA will issue a preliminary financial accountability rating to a school district within 150 days of the district's complete financial data being made available to the TEA staff.

(1) (No change.)

(2) A district may submit a written request that the TEA review a preliminary rating if the preliminary rating was based on a data error solely attributable to the TEA's review of the data for any of the indicators.

(A) The TEA office responsible for financial audits must receive the request for review no later than 30 days after the TEA's release of the preliminary rating, and the request must include substantial evidence that supports the district's position.

(i) Only appeals that would result in a change of the district's preliminary rating will be considered.

(ii) The TEA staff will review information submitted by the district to validate the statements made to the extent possible. The TEA will examine all relevant data.

(iii) The TEA staff will prepare a recommendation and forward it to an external panel for review. This review panel will provide independent oversight to the appeals process.

(iv) The external review panel will examine the appeal, supporting documentation, staff research, and the staff recommendation. The review panel will determine its recommendation.

(v) The external review panel's recommendation will be forwarded to the commissioner.

(vi) The commissioner will make a final decision in accordance with the timeline specified in subparagraph (F) of this paragraph.

(B) - (H) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 26, 2007.
TRD-200701169

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 475-1497

TITLE 22. EXAMINING BOARDS

PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS

CHAPTER 137. COMPLIANCE AND PROFESSIONALISM

SUBCHAPTER C. PROFESSIONAL CONDUCT AND ETHICS

22 TAC §137.53

The Texas Board of Professional Engineers proposes an amendment to §137.53, relating to the Professional Services Procurement Act (PSPA). The proposed amendment corrects the title of the section to conform to the actual title of PSPA.

The proposed amendment changes the section title used in the Board rules to Professional Services Procurement Act.

Lance Kinney, P.E., Deputy Executive Director for the board, has determined that for the first five-year period the proposed amendment is in effect there are no fiscal implications for the state or local government as a result of enforcing or administering the section as amended. Mr. Kinney has determined that there is no additional cost to the agency or to licensees. There is no fiscal impact to individuals required to comply with the rule. There is no effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment would be a clarification of the requirements for practice for Professional Engineers.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, that authorizes the board to make and enforce all rules and regulations and bylaws consistent with the Act as necessary for the performance of its duties, the governance of its own, proceedings, and the regulation of the practice of engineering in this state; and Chapter 2254 of the Texas Government Code (Professional Services Procurement Act)

No other statutes, articles or codes are affected by the proposed amendment.

§137.53. *Engineer Standards of Compliance with Professional [Procurement] Services Procurement Act.*

(a) - (c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 22, 2007.

TRD-200701139

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 440-7723



PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

CHAPTER 681. PROFESSIONAL COUNSELORS

The Texas State Board of Examiners of Professional Counselors (board) proposes amendments to §681.14 and §681.125, concerning the licensing and regulation of professional counselors. Specifically, the amendments cover late renewal fees and renewal of inactive status.

The proposed amendment relating to late renewal fees is required by statutory changes to Texas Occupations Code, Chapter 503, by House Bill 1283, passed during the 79th Legislature, Regular Session, 2005. The proposed amendment relating to the renewal of inactive status conforms that status to the two-year licensing period in effect for licenses in regular status.

SECTION-BY-SECTION SUMMARY

The amendment to §681.14 reflects the change in the method of calculating the late renewal fee in accordance with Texas Occupations Code, Chapter 503, specifically §503.354(c) - (d). The statute provides that a person whose license has been expired for 90 days or less may renew the license by paying to the board a fee that is equal to 1-1/4 times the amount of the renewal fee. The statute further provides that if a person's license has been expired for more than 90 days, but less than one year, the person may renew the license by paying to the board a fee that is equal to 1-1/2 times the amount of the renewal fee. The late renewal fees are proposed for adjustment to comply with the statutory directive.

The amendment to §681.125 requires the renewal of inactive status biennially instead of annually. There is not an increased cost to a person who chooses to place a license on inactive status.

FISCAL NOTE

Bobbe Alexander, Executive Director, has determined that for each year of the first five years the sections are in effect, there will be fiscal implications to state government as a result of enforcing or administering the sections as proposed. There will be a decrease in general revenue of \$13,440 each year of the first five years the sections are in effect. There will be no fiscal implications to local government.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Ms. Alexander has also determined that there will be no economic costs to small businesses or micro-businesses. This was determined by interpretation of the rules that these entities will not be required to alter their business practices to comply with the sections as proposed. The rules relate to individuals who are licensed as professional counselors, and there are no anticipated economic costs to persons who are required to comply with the sections as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

Ms. Alexander has also determined that for each year of the first five years the sections are in effect, the public will benefit from adoption of the sections. The public benefit anticipated as a result of enforcing or administering the sections is to effectively regulate the practice of counseling in Texas, which will protect and promote public health, safety, and welfare, and to ensure that statutory directives are carried out.

REGULATORY ANALYSIS

The board has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The board has determined that the proposed amendments do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Bobbe Alexander, Executive Director, State Board of Examiners of Professional Counselors, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756 or by email to lpc@dshs.state.tx.us. When e-mailing comments, please indicate "Comments on Proposed Rules" in the e-mail subject line. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

SUBCHAPTER A. THE BOARD

22 TAC §681.14

STATUTORY AUTHORITY

The proposed amendment is authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The proposed amendment affects Occupations Code, Chapter 503.

§681.14. *Licensing Fees.*

(a) Licensing fees are as follows:

(1) - (3) (No change.)

(4) an initial regular license or a renewal regular license--

\$100;

- ~~{(4)}~~ a license issued for a one year term--\$50;]
- ~~{(5)}~~ a license issued for a two year term--\$100;]
- ~~{(6)}~~ late renewal fee on one year renewal cycle:]
 - ~~{(A)}~~ 1 to 90 days after expiration--\$105; and]
 - ~~{(B)}~~ 91 to 365 days after expiration--\$160.]

- (5) ~~{(7)}~~ late renewal fee [on two year renewal cycle]:
 - (A) 1-90 days after expiration--\$125 [~~\$155~~]; and
 - (B) 91-365 days after expiration--\$150 [~~\$210~~].

- (6) ~~{(8)}~~ biennial [~~annual~~] inactive status fee--\$50 [~~\$25~~];

(7) ~~{(9)}~~ license certificate or renewal card duplication or replacement fee--\$10;

- (8) ~~{(40)}~~ returned check fee--\$25; and

(9) ~~{(44)}~~ art therapy specialty designation application fee--\$30 (in addition to any necessary application fees listed in paragraphs (1) - ~~(8)~~ ~~{(40)}~~ of this subsection).

(b) - (f) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2007.

TRD-200701104

Judy Powell

Chairperson

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 458-7111 x6990



SUBCHAPTER I. REGULAR LICENSE RENEWAL; INACTIVE AND RETIREMENT STATUS

22 TAC §681.125

STATUTORY AUTHORITY

The proposed amendment is authorized by Occupations Code, §503.203, which authorizes the board to adopt rules necessary for the performance of the board's duties.

The proposed amendment affects Occupations Code, Chapter 503.

§681.125. *Inactive Status.*

- (a) - (g) (No change.)

(h) The licensee must renew the inactive status biennially [~~annually~~].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 21, 2007.

TRD-200701105

Judy Powell

Chairperson

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 458-7111 x6990



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 29. PRACTICE AND PROCEDURE

37 TAC §29.9

The Texas Department of Public Safety proposes to amend §29.9, concerning Service of Pleadings and Motions.

Amendment to subsection (b) adds "regular mail" to the list of how pleadings, pleas or motions shall be served and is necessary in order to conform to the State Office of Administrative Hearing Rules of Procedure, 1 TAC §155.25, Service of Documents on Parties.

Oscar Ybarra, Chief of Finance, has determined that for each year of the first five-year period the rule is in effect there will be no fiscal implications for state or local government or local economies.

Mr. Ybarra also has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of enforcing the rule will be current and updated rules. There is no adverse economic impact anticipated for individuals, small businesses, or micro-businesses.

The department has determined that Chapter 2007 of the Government Code does not apply to this rule. Accordingly, the department is not required to complete a takings impact assessment regarding this rule.

Comments on the proposal may be submitted, no later than thirty (30) days after publication, to Wayne Mueller, Assistant General Counsel, Office of General Counsel, Texas Department of Public Safety, P.O. Box 4087, Austin, Texas 78761-0140, (512) 424-2890, or fax (512) 424-2251.

The amendment is proposed pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work.

Texas Government Code, §411.004(3) is affected by this proposal.

§29.9. *Service of Pleadings and Motions.*

(a) After the institution of proceedings, all pleadings, pleas, motions, discovery requests and any other documents that are filed or served by respondents and/or intervenors on the department, or any employee of the department, shall be served on the department's named attorney of record at the address identified in the notice of hearing or complaint.

(b) All pleadings, pleas, or motions shall be served by regular mail, certified mail, return receipt requested, facsimile transmission, personal delivery, or overnight carrier.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 23, 2007.

TRD-200701149

Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

Earliest possible date of adoption: May 6, 2007

For further information, please call: (512) 424-2135



PART 9. TEXAS COMMISSION ON JAIL STANDARDS

CHAPTER 259. NEW CONSTRUCTION RULES

SUBCHAPTER B. NEW MAXIMUM SECURITY DESIGN, CONSTRUCTION AND FURNISHING REQUIREMENTS

37 TAC §259.138

The Commission on Jail Standards proposes an amendment to §259.138, concerning Remote Holding Cells to allow a county to better utilize court holding cells.

Adan Munoz, Executive Director, has determined that for the first five year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amendment.

Mr. Munoz, has also determined that for each year of the first five years the amendment as proposed is in effect the public benefits anticipated as a result of enforcing the amendment as proposed will be clarification of existing standards.

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Brandon S. Wood, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this amendment are Local Government Code, Chapter 351, §351.002 and §351.015.

§259.138. *Holding Cells.*

(a) (No change.)

(b) Remote Holding Cells. Holding cells that are separate from the facility and utilized for direct court holding, processing, or for inmates awaiting transportation. Inmates shall not be held for more than 4 [8] hours and the cell shall include the following features.

(1) Seating. A stationary bench or benches abutting the walls shall be provided. Benches shall be 17" to 19" above the finished

floor, and not less than 12" wide. Seating shall be sufficient to provide not less than 18 [24] linear inches per inmate at cell capacity.

(2) Plumbing. Cells shall be provided with adequate toilets, lavatories capable of providing drinking water, and floor drains. The floor shall be properly pitched to drains.

(3) Cell Size. The size of the cell shall be determined by the anticipated maximum number of inmates to be confined at any one time. Cells shall be constructed to house from one to 24 inmates and the capacity shall be determined by the amount of seating provided and posted at the exterior of the cell. [shall contain not less than 40 square feet of floor space for the first inmate and 18 square feet of floor space for each additional inmate to be confined.]

(4) Surfaces. Floor, wall, and ceiling material shall be durable and easily cleaned.

(5) Supervision. The cell shall be located and constructed to facilitate supervision of the cell area and to materially reduce noise.

(6) Smoke Detection. Smoke detection capability shall be provided. The alarm shall annunciate at a staffed location in close proximity to the cell. Additional life safety items shall be compatible with the remainder of the building.

(7) Audible Communication. Audible communications shall be provided.

(c) Remote Holding Cells. Holding cells that are separate from the facility and utilized for direct court holding, processing, or for inmates awaiting transportation. Inmates shall not be held for more than 8 hours and the cell shall include the following features.

(1) Seating. A stationary bench or benches abutting the walls shall be provided. Benches shall be 17" to 19" above the finished floor, and not less than 12" wide. Seating shall be sufficient to provide not less than 24 linear inches per inmate at cell capacity.

(2) Plumbing. Cells shall be provided with adequate toilets, lavatories capable of providing drinking water, and floor drains. The floor shall be properly pitched to drains.

(3) Cell Size. The size of the cell shall be determined by the anticipated maximum number of inmates to be confined at any one time. Cells shall be constructed to house from one to 24 inmates and shall contain not less than 40 square feet of floor space for the first inmate and 18 square feet of floor space for each additional inmate to be confined.

(4) Surfaces. Floor, wall, and ceiling material shall be durable and easily cleaned.

(5) Supervision. The cell shall be located and constructed to facilitate supervision of the cell area and to materially reduce noise.

(6) Smoke Detection. Smoke detection capability shall be provided. The alarm shall annunciate at a staffed location in close proximity to the cell. Additional life safety items shall be compatible with the remainder of the building.

(7) Audible Communication. Audible communications shall be provided.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 23, 2007.

TRD-200701151

Brandon Wood
Director Jail Services
Texas Commission on Jail Standards
Earliest possible date of adoption: May 6, 2007
For further information, please call: (512) 463-8236



CHAPTER 269. RECORDS AND PROCEDURES

SUBCHAPTER A. GENERAL

37 TAC §269.1

The Texas Commission on Jail Standards proposes an amendment to §269.1, concerning Records and Procedures, to ensure escape from custody reports are submitted to the agency in a timely manner.

Adan Munoz, Executive Director, has determined that for the first five year period the amendment is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the amended section.

Mr. Munoz, has determined that for each year of the first five years the amendment as proposed is in effect the public benefits anticipated as a result of enforcing the amended section will be clarification of existing standards.

There will be no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the amendment as proposed.

Comments on the proposal may be submitted to Brandon S. Wood, P.O. Box 12985, Austin, Texas 78711, (512) 463-5505.

The amendment is proposed under Government Code, Chapter 511, which provides the Texas Commission on Jail Standards with the authority to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

The statutes that are affected by this proposal are Local Government Code, Chapter 351, §351.002 and §351.015.

§269.1. Record System.

The sheriff/operator shall maintain the following records:

- (1) - (3) (No change.)
- (4) Escape From Custody Report

(A) The Texas Commission on Jail Standards shall ~~should~~ be notified of all escapes from a facility within 24 hours of the escape.

(B) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on March 23, 2007.

TRD-200701152
Brandon Wood
Director of Jail Services
Texas Commission on Jail Standards
Earliest possible date of adoption: May 6, 2007
For further information, please call: (512) 463-8236



WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 22. EXAMINING BOARDS

PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 505. THE BOARD

22 TAC §505.12

The Texas State Board of Public Accountancy withdraws the proposed amendments to 22 TAC §505.12 which appeared in the February 9, 2007, issue of the *Texas Register* (31 TexReg 496).

Filed with the Office of the Secretary of State on March 26, 2007.

TRD-200701171

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: March 26, 2007

For further information, please call: (512) 305-7848 or (512) 305-7842

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ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text as published in the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 1. ADMINISTRATION

PART 3. OFFICE OF THE ATTORNEY GENERAL

CHAPTER 62. SEXUAL ASSAULT PREVENTION AND CRISIS SERVICES

1 TAC §§62.33 - 62.59

The Office of the Attorney General (OAG) adopts the repeal of Title 1, Texas Administrative Code, Chapter 62, §§62.33 - 62.59, relating to Sexual Assault Prevention and Crisis Services, and in particular, the sexual assault and crisis services grant programs of the OAG. The repeal is adopted without changes to the proposal as published in the January 12, 2007, issue of the *Texas Register* (32 TexReg 150).

The repeal is adopted to better organize the existing Chapter 62 as well as to allow for the additional provisions and modifications to the rules regarding the sexual assault prevention and crisis services grant programs to be proposed for inclusion in the Chapter 62 in an orderly fashion. These rules are being adopted for repeal and new rules regarding the sexual assault prevention and crisis services grant programs are being adopted elsewhere in this issue of the *Texas Register*.

According to Article I, Section 31 of the Texas Constitution, the Texas Compensation to Victims of Crime Fund may be expended as provided by law only for delivering or funding victim-related compensation, services, or assistance. Article 56.541(e) of the Texas Code of Criminal Procedure provides that the OAG may use funds from the Texas Compensation to Victims of Crime Fund for grants or contracts supporting crime victim-related services or assistance. Subsection (f) of the Article authorizes the OAG to adopt rules necessary to carrying out the Article's provisions.

Chapter 420 of the Texas Government Code establishes a Sexual Assault Prevention and Crisis Services Fund, and authorizes the OAG to award grants to promote the development throughout the state of locally based and supported nonprofit programs for the survivors of sexual assault and to standardize the quality of services provided. Section 420.004(b) and §420.011 authorize the OAG to adopt rules necessary to implement the chapter.

The adopted repeal will lead to the development of a more orderly and expanded set of rules of the OAG relating to the administration of the Texas Compensation to Victims of Crime Fund and the Sexual Assault Prevention and Crisis Services Fund, as required by the Administrative Procedures Act, Texas Government Code, Chapter 2001.

No comments were received regarding the repeal of the sections.

The repeal is adopted under the Texas Code of Criminal Procedure, Article 56.541(f), which authorizes the Office of the Attorney General to adopt rules reasonable and necessary to implement Article 56.541, and in order to use money for grants or contracts that support crime victim-related services or assistance. The repeal is adopted under the Texas Government Code, §420.004(b) and §420.011, which authorizes the OAG to adopt rules necessary to implement the Sexual Assault Prevention and Crisis Services Act in order to promote the development throughout the state of locally based and supported nonprofit programs for the survivors of sexual assault and to standardize the quality of services provided.

The adopted repeal affects Texas Code of Criminal Procedure, Article 56.541(e) and Texas Government Code, Chapter 420.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 26, 2007.

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Office of the Attorney General

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For information regarding this publication, please contact Lauri Saathoff, Agency Liaison, at (512) 463-2096.



1 TAC §§62.100 - 62.115, 62.200 - 62.203, 62.300 - 62.309, 62.400, 62.401, 62.500, 62.501

The Office of the Attorney General (OAG) adopts new §§62.100 - 62.115, 62.200 - 62.203, 62.300 - 62.309, 62.400, 62.401, 62.500, and 62.501, relating to rules governing the Sexual Assault Prevention and Crisis Services. The new rules are adopted without changes to the proposed text as published in January 12, 2007, issue of the *Texas Register* (32 TexReg 151). Therefore, all sections will not be republished.

The new rules relate to the grant programs of the OAG concerning Sexual Assault Prevention and Crisis Services. The new rules will better serve victims of crime by improving the administration of the Sexual Assault Prevention and Crisis Services grant programs.

According to Article I, Section 31 of the Texas Constitution, the Texas Compensation to Victims of Crime Fund may be expended as provided by law only for delivering or funding victim-related compensation, services, or assistance. Article 56.541(e) of the Texas Code of Criminal Procedure provides that the OAG may use funds from the Texas Compensation to Victims of Crime

Fund for grants or contracts supporting crime victim-related services or assistance. Subsection (f) of the Article authorizes the OAG to adopt rules necessary to carrying out the Article's provisions.

Chapter 420 of the Texas Government Code establishes a Sexual Assault Prevention and Crisis Services Fund, and authorizes the OAG to award grants to promote the development throughout the state of locally based and supported nonprofit programs for the survivors of sexual assault and to standardize the quality of services provided. Section 420.004(b) and §420.011 authorize the OAG to adopt rules necessary to implement the chapter.

The new rules accurately implement, interpret, and prescribe the law and minimum standards of practices, procedures, and policies of the OAG relating to the administration of the Texas Compensation to Victims of Crime Fund and the Sexual Assault Prevention and Crisis Services Fund, as required by the Administrative Procedures Act, Texas Government Code, Chapter 2001. The new rules are adopted to clarify the agency's practices and to make the rules more accessible, understandable and usable.

New §62.100 gives definitions for the relevant terms. New §62.101 provides that the rules apply to all SAPCS funded sexual assault programs. New §62.102 provides the source of the state and federal funds. New §62.103 provides all funding is contingent upon appropriation by the United States Congress and Texas Legislature and approval of OAG.

New §62.104 establishes the purpose of the SAPCS program; the OAG may use a funding formula to determine the amounts of funding; other factors or priorities the OAG may consider in making funding decisions; and provides that funding decisions will support the efficient and effective use of public funds. New §62.105 provides the purposes for which a SAPCS grant contract may be awarded. New §62.105 provides the OAG may consult and contract with or award grants to local and statewide programs for special projects. New §62.106 defines the eligible applicants to apply under the SAPCS program; requires the applicant to offer the defined minimum services for at least nine months prior to receiving a SAPCS grant contract; and allows for grant contracts for special projects. New §62.107 provides that the OAG may require cash and/or in-kind match for grants; that the amount of an award and match requirements are determined solely by the OAG; and the OAG reserves the right to alter the required match for any funded program and that all SAPCS programs must have a volunteer component. New §62.108 provides the minimum amount of funding for a SAPCS program and provides that the OAG will state the maximum amount of funding, may use a funding formula and reserves the right to alter the funding formula; provides that the amount of an award is determined solely by the OAG; that grants may be awarded at amounts above or below the established funding levels and that the OAG is not obligated to fund a grant at the amount requested.

New §62.109 provides generally the grant contract may be awarded for any number of months up to a two year period; and establishes that the grantee, in the event a grant period extends for more than one fiscal year, may be required to submit additional documentation relating to a subsequent fiscal year of the grant contract period, including an updated budget; provides that the OAG may base its decision on subsequent fiscal year funding amounts on the grantee's prior performance, including the timeliness and thoroughness of reporting, effective and efficient use of grant funds and the success of the program in meeting its goals.

New §62.110 establishes that a grant contract is not a right or entitlement and no commitment by the OAG that a grant contract, once funded, will receive subsequent funding. New §62.111 provides for additional award opportunities to fund a grant program at amounts higher or lower than provided for in the chapter based on availability of funds and particularized need; and confirms the OAG may award a grant contract or re-designate a grant contract once awarded to a different funding source than the grant for which the applicant filed an application or received funding.

New §62.112 provides an applicant registration requirement for an applicant to register its intent to apply for funding; that grant applications will not be considered if an applicant registration is not timely filed with the OAG; and provides OAG will notify applicant if application is not considered due to failure to timely file applicant registration.

New §62.113 establishes a procedure for filing documents required to be submitted to the OAG; requires that documents must be timely received by the OAG to be considered filed; provides proof of sending a document is not proof of receipt by the OAG; and establishes the final, non-appealable filing decision-making authority of the OAG.

New §62.114 requires that grantees must comply with all applicable state and federal statutes, rules, regulations, and guidelines, including, but not limited to, the Uniform Grant Management Standards (UGMS) and the applicable OMB Circulars and applies those requirements to SAPCS grants, including grants to non-profit corporations.

New §62.115 provides for the transmittal or required submission of notices, forms or other documents and information via the Internet or other electronic means; and provides that transmission or submission via electronic means satisfies the relevant written requirements.

New §62.200 provides the OAG will publish a Request for Applications in the *Texas Register* and post it on the OAG's official agency website. New §62.200 establishes the minimum information to be provided in an Request for Applications. New §62.200 establishes that after the Request for Applications is published, the Application Kit will be available to the public; requires an application to be submitted and filed and received by CVSD as established in the Request for Applications. New §62.200 also establishes that applications will be initially screened for eligibility, and if eligible, will be evaluated and reviewed, and a grant decision made. New §62.200 states that providing false information, knowingly or unknowingly, on a grant application may cause an application to be denied or cause the grant contract, once awarded, to be terminated.

New §62.201 establishes that applications initially screened as ineligible will not be scored further and establishes the grounds for determining ineligibility. New §62.201 allows for the OAG to designate teams to evaluate and review eligible applications; and provides evaluation factors will be developed to assess the award criteria; allows the OAG to contact an applicant to provide additional information and provides there are several steps in the evaluation and review process and a decision to deny an application may be made at any point during the process.

New §62.202 provides that the OAG will notify the applicant in writing of a grant decision; that the OAG may utilize a grant contract document or a notice of grant document to award a grant and the applicant will be given a deadline to act to accept the grant award; and provides that the OAG may add special conditions to the grant award and until the special conditions are sat-

ified or resolved, they will affect the grantee's ability to receive funds. New §62.203 provides that all grant decisions rest completely within the discretionary authority of the OAG; and provides that the award of a grant contract to a program shall not commit or obligate the OAG in any way to make any additional, supplemental, continuation, or other award to that program.

New §62.300 lists the eligible budget categories for a grant budget and requires all applicants to submit a completed budget on the OAG prescribed form and provides that the grants are reimbursement-only grants, with grantees being reimbursed for authorized actual expenditures substantiated by documentation submitted to the OAG. New §62.300 does not allow an individual paid with grant funds to receive dual compensation for the same work, even if the services performed benefit more than one entity; requires all grantees, including nonprofit entities and local governmental agencies, to follow the rules and requirements of UGMS and all applicable OMB federal circulars; requires a documented method for allocation of direct costs and adequate supporting receipts and records be maintained; that all budget items to be reasonable and necessary and allocated proportionately within each budget category and that the OAG is not obligated to fund budget items at the amounts requested or continue to fund budget items once a grant has been awarded.

New §62.301 defines the "Personnel" budget category. New §62.301 requires salaries to be reasonable and comply with the grantee's salary classification schedule or other documentation supporting the salary; that the OAG will determine whether a salary is reasonable and may limit the grant-funded portion of any salary that may be funded; that grants funds may not be used to pay overtime; requires any changes to job duties or employment status of a grant funded position to be reported to the OAG immediately and prohibits the use of grant funds to pay any portion of the salary or any other compensation for an elected government official.

New §62.302 defines the "Fringe Benefit" budget category; allows grant funds to pay fringe benefits to employees of the grantee identified as part of the grant and requires the grantee to provide the same fringe benefits to grant-funded personnel that are provided to non-grant-funded personnel. New §62.303 defines the "Professional and Consultant Services" budget category and use of grant funds for those services. New §62.303 requires any contract or agreement entered into by a grantee that obligates grant funds to be in writing and consistent with Texas contract law and requires grantees to maintain adequate documentation supporting budget items for a contractor's time, services, and rates of compensation and establish a contract administration and monitoring system; and that grant funds may not be used to pay for any professional and consultant services for a person or vendor who participates directly in writing a grant application.

New §62.304 defines the "Travel" budget category, provides that travel expenses may be reimbursed according to Texas State Travel Guidelines, unless a grantee's travel policy provides a lesser reimbursement; provides that travel must relate directly to the delivery of services that supports the program that is funded by the OAG; and unless specially authorized, grant funds may not be used to pay for out-of-state travel. New §62.305 defines the "Equipment" budget category, provides that grantee may use equipment paid for with OAG grant funds for grant-related purposes and not for personal or non-grant-related purposes; and

that grant funds may not be used to fund the purchase or lease of vehicles. New §62.306 defines the "Supplies" budget category and does not allow grant funds to purchase promotional items or recreational activities. New §62.307 defines the "Other Direct Operating Expenses" budget category, provides that grant funds may not be used to purchase food and beverages and allows registration fees for conferences and other training sessions. New §62.308 defines the "Indirect Costs" budget category and provides that the OAG will not allow indirect costs as a budget item. New §62.309 provides a list of items that are unallowed costs.

New §62.400 provides that each Application Kit will have a Comprehensive Certification and Assurances Form, which will include certain certifications and assurances that applicants must submit with the grant application. New §62.401 provides that a resolution must be submitted with the grant application and provides specific requirements for the resolution from the applicable governing body.

New §62.500 provides that all required forms will be provided by the OAG. New §62.501 requires that each grant must designate a grant contact as well as an authorized official and that any changes in the grant contact or authorized official must be submitted to the OAG immediately.

No comments were received regarding the adoption of the new rules.

The new rules are adopted under the Texas Code of Criminal Procedure, Article 56.541(f), which authorizes the OAG to adopt rules necessary to implement Article 56.541, and in order to use money for grants or contracts that support crime victim-related services or assistance. The new rules are adopted under the Texas Government Code, §420.004(b) and §420.011, which authorizes the OAG to adopt rules necessary to implement the Sexual Assault Prevention and Crisis Services Act in order to promote the development throughout the state of locally based and supported nonprofit programs for the survivors of sexual assault and to standardize the quality of services provided.

The new rules affect Texas Code of Criminal Procedure, Article 56.541(e) and Texas Government Code, Chapter 420.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER S. WHOLESALE MARKETS

16 TAC §25.507

The Public Utility Commission of Texas (commission) adopts new §25.507, relating to Electric Reliability Council of Texas (ERCOT) Emergency Interruptible Load Service with changes to the proposed text as published in the February 16, 2007, issue of the *Texas Register* (32 TexReg 603). The adopted rule implements an emergency demand response program that can be deployed in system emergencies. The adopted new rule will create a new service to be available to ERCOT to maintain electric service for customers if an emergency arises in which electric generation resources are not adequate to supply customers' demand. In such circumstances, ERCOT has the discretion to instruct utilities to interrupt firm service to a limited number of customers who have offered to be interrupted for a price in order to prevent a broader service interruption. The new emergency interruptible load service is intended to provide a means of reducing demand by interrupting service to such customers rather than interrupting service to customers who expect to have continuous, reliable service. This adopted new rule is a competition rule subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e). This new section is adopted under Project Number 33457.

A public hearing on the proposed section was held at commission offices on March 6, 2007, at 10:00 a.m. Representatives from Chaparral Steel Company (Chaparral), Cirro Energy Services (Cirro), City Public Service (CPS), Demand Response Coalition, EnerNOC Inc (EnerNOC), ERCOT, Potomac Economics, Reliant Retail Energy Power Supply (Reliant), Steering Committee of Cities Served by TXU Electric Delivery (Cities), Texas Retail Energy (TRE), and Texas Industrial Energy Consumers (TIEC) attended the hearing and provided comments. To the extent that these comments differ from the submitted written comments, such comments are summarized herein.

The commission received comments on the proposed new section from Alliance for Retail Markets (ARM), City Public Service and Austin Energy (CPS and Austin), Chaparral, Cirro, EnerNOC, ERCOT, Good Company, Nucor Steel-Texas (Nucor), Occidental Chemical Corporation (Oxy), Reliant, Texas Competitive Power Advocates (CPA), TIEC, TRE, and Xtend Energy (Xtend).

To the extent ERCOT is referenced in this rule, it refers to the professional staff of the Electric Reliability Council of Texas rather than to the Stakeholder process at ERCOT.

The commission posed two questions in this proceeding.

Question 1: Establishing the correct baseline is important to insure that there is actual load available when called upon for interruption. Please comment as to the requirements necessary to create an effective baseline.

ERCOT expressed agreement that the goal of establishing an appropriate baseline was to hold loads accountable for meeting their curtailment obligations and voiced its confidence that the methodologies it developed in Protocol Revision Request (PRR) 705 will be successful in meeting the goal and are consistent with the proposed rule. ERCOT made the distinction between interpreting the baseline as meaning the load's actual level of consumption at the moment of dispatch and estimating the load's

level of consumption under "business as usual" conditions at the moment of dispatch, and will measure the load's performance following the verbal deployment instruction (VDI) against those "business as usual" conditions.

To determine that baseline, ERCOT proposes to apply the methodology and software it uses for its load profiles to develop load-specific models for the loads participating in the Emergency Interruptible Load Service (EILS) program. Use of the models will result in interval-by-interval load estimates for each location. ERCOT expects that the load estimates produced by the models should be highly dependable estimates of the expected demand that would have been present at the location in the absence of an EILS event. This baseline will provide the standard for determining whether an EILS resource performed as required when dispatched, and continued to perform, throughout the duration of the EILS event.

To accommodate highly fluctuating batch process loads that can be of value to the system during an emergency by remaining offline throughout an EILS deployment, ERCOT has proposed an alternate baseline methodology whereby each candidate will declare a minimum load level below which it cannot curtail; and its load reduction capacity bid would be capped at the average load over the preceding 12 months minus the declared minimum load.

TRE agreed that establishing the correct baseline must be carefully reviewed and cautioned that care should be taken so as not to discourage proactive demand response that is helpful to reliability. TRE is concerned that, if the baseline is set at a level that does not allow for any fluctuation of demand regardless of market prices until the load is required to curtail, that runs counter to an open market and is more indicative of a regulated regime. TRE stated that reducing loads during periods of high prices will increase price elasticity, reduce the occurrence of high price periods, and reduce system contingencies overall. TRE indicated that the baseline calculation should be well understood, transparent, and should account for the extreme nature of scarcity periods; therefore, any type of averaging to calculate the baseline can underestimate the total contribution of proactive load curtailment and expose the customer to the risk of an underperformance penalty. As a result, TRE proposed that the baseline be set on a historical peak basis with a contracted level of reduction of MW consumed and, to the extent demand responds to pricing during the operating day, such action should be consistent with any EILS program such that disciplining load for assisting with reliability by responding to market signals becomes unnecessary.

Chaparral commented that the baseline should be known and knowable in advance of the bid submission process, should encourage broad participation, and should not be structured such that loads are encouraged to increase their demand during an Emergency Electric Curtailment Plan (EECP) Stage 1 event. Chaparral supports the proposed rule as successfully adhering to all of those principles and supports adoption of the proposed baseline.

Nucor disagreed with the premise of the question. It argued that, unlike Responsive Reserve Service (RRS) which must be "on" at all times in order to be interrupted when called, EILS loads agreed to be off-line or to operate at a reduced load level when called. Nucor stated that, in an emergency, the benefit to the ERCOT system if an EILS load is off-line prior to being ordered off-line by ERCOT is that it has already reduced the need to call for a curtailment and reduced the severity of any emergency. At

this point in the emergency, ERCOT's call to the EILS resource would ensure that the resource would remain off-line for the duration of the emergency event.

Nucor commented that it believes the rule as proposed contains sufficient guidance for ERCOT staff to establish individual baselines for each EILS resource. Nucor stated that it does not believe the proposed rule needed to be made more specific based on how ERCOT intends to implement the EILS program and ERCOT's original call for the rule.

Conversely, Oxy submitted comments insisting that an effective baseline must measure the resource's consumption immediately prior to deployment. Oxy believes that ERCOT's proposed method will not work since there is no guarantee that any EILS load will be available for interruption when needed. Oxy postulated that loads already engaged in passive response will most likely become EILS resources; therefore, ERCOT will get little or no actual response if and when it deploys EILS. Oxy stated that, in order for the market to get what it will be paying for and for ERCOT to ensure a response that is consistent with the identified reliability needs, the baseline should be a snapshot of each EILS resource's consumption immediately prior to deployment and that evaluation of performance should be from this point.

CPS and Austin concurred that a more appropriate baseline methodology should be one that measures load just prior to EILS deployment, which should be the average load over the full interval preceding the VDI. CPS and Austin suggested that using a 12-month average could result in ERCOT paying a load to curtail megawatts that it does not have and expecting a load to provide a service that it cannot provide. CPS and Austin stated that the rule's proposed baseline language is inadequate; but if data for a longer time is to be examined, then the lowest value for that time period should be used as the baseline.

TIEC also expressed its opinion that the baseline should take into account the level of energy consumed by the EILS resource during the interval immediately preceding the deployment by ERCOT. TIEC disagrees that merely ensuring the load is offline during the EECF event is just as valuable as the load staying online until it is deployed by ERCOT. TIEC explained that ERCOT operators will assume during the early stages of an EECF event that they still have EILS load available to them as a dispatchable part of the system. As the baseline determination is proposed, however, they will have no way of knowing whether any or all of the EILS load has self-deployed; and ERCOT will be uncertain of what system response will occur as a result of the deployment of EILS. TIEC insisted it is critical to revise the rule to gain a higher probability that EILS loads will be available when called upon by ERCOT, giving operators a predictable response. TIEC stated the proposed rule lacks specificity on the determination of the baselines, other than suggesting that it will be based on the most recent 12 months of Interval Data Recorder (IDR) data. TIEC contended that using the methodology proposed in PRR 705 will not provide a reliable, useful tool to ERCOT operators and suggested that the baseline methodology proposed in PRR 702 contains alternate baseline definitions that will provide a more useful and reliable EILS service.

EnerNOC agreed that establishing the correct baseline is important to ensure there is load available when called upon for interruption. EnerNOC stated its experience has shown the most successful demand response programs require near-real-time five-minute load data to calibrate a load resource's baseline. EnerNOC recognized ERCOT's limited resources and its desire to keep the implementation cost of the EILS program low. To that

end, EnerNOC supported using 15-minute IDR meter data. EnerNOC expressed its view that 12 months of data were not necessary to develop an accurate baseline for an EILS resource. It opined that ERCOT cannot assume enough insight into a load's business operations to understand what is seasonal variation and what is permanent change; and the ideal baseline should account for business changes unrelated to the EILS program, such as load growth or contraction. EnerNOC suggested that ERCOT use a baseline calculation for the EILS that is a rolling average of the most recent, similar ten days of demand, with a linear asymmetric weather adjustment. EnerNOC proposed the following replacement language to proposed subsection (c)(3):

Baseline shall be a weighted average an EILS Resource's hourly consumption during the previous ten (10) "like" days. The past ten (10) "like" days shall exclude (i) those days when ERCOT deploys EILS, and (ii) those days when ERCOT implements rotating outages. An asymmetric weather adjustment will then be applied such that the weather adjustment during an EILS deployment is equal to the average difference between calculated baseline and an EILS Resource's actual energy usage during the two hour period prior to the initiation of an EILS deployment. If the adjustment would result in a decrease the baseline, then no adjustment is applied.

EnerNOC stated that its proposed methodology would avoid many of the problems associated with baselines that consider extremely short or long periods of data. EnerNOC also felt that, by emphasizing only recent data, their proposed methodology is a good proxy for an EILS resource's average consumption profile. EnerNOC also urged the commission to consider implementing ISO New England's baseline methodology for the EILS.

Reliant proposed that the relevant points when establishing the baseline were the contract period and the EECF event period. The contract quantity of EILS from a resource should be based on the load's historical demand over the same period from the prior year, adjusted for any changes in load patterns. The baseline for the EECF event period should be based on the load's average demand during the two hours immediately prior to the VDI. Reliant contended that this approach would measure the load's performance and true contribution the EILS resource makes to alleviate the EECF condition. Reliant noted that, if the baselines were set based on a 12-month average as proposed in the rule, the seasonal, prime and non-prime hourly load fluctuations are smoothed out such that the determination of availability factors would not be as accurate. Reliant also raised the possibility that EILS resources might be paid for capacity that was not actually available for interruption at the time of ERCOT's VDI and thus would provide no benefit to relieving the EECF condition, while still being paid for capacity.

Reliant further opined that, in an energy-only market, a baseline is not required for products appropriately structured in the energy-only context. Demand response products are predicated on the price of energy reaching a point where loads voluntarily turn off. The EILS program discourages loads from responding to prices because it provides an additional subsidy to loads to stay on past the time when they might otherwise stop consuming energy.

Cities noted a large majority of the customers can't participate in this program but will bear its cost. Cities pointed out that there are really two choices, a very firm inflexible baseline and strict penalties for non-performance or a flexible baseline with less rigid performance requirements. The rigid baseline would require sufficient load to be online, but the emergency might be

accelerated due to load not coming off until the program is called. The less rigid baseline would allow load to come off early but would provide no way for customers to ensure that they are getting what they paid for.

Commission response

The commission agrees with most commenters that designing the correct baseline is fundamental to both establishing the maximum number of megawatts an EILS resource could bid into the program during a given contract period and verifying compliance as compared to the resource's contracted capacity during an EILS deployment event. The commission supports ERCOT's proposal to have two different methodologies to create baseline formulae that will predict what an EILS resource's load would have been but for the curtailment, as embodied in PRR 705. The commission also approves of ERCOT's use of load profiling methodology to determine the EILS candidate's business-as-usual load consumption pattern. Thus, loads that already have some price responsive behavior built in to their business plans will have that reflected in their availability factor for their baseline for a comparable period.

The fundamental issue addressed by commenters on establishing the correct baseline with regard to verifying compliance is whether the capacity payments should compensate an EILS resource for a certain number of megawatts of load that ERCOT can hold in reserve to curtail when the operator issues the VDI or whether that same load can be price responsive (or voluntarily turn off for any reason) during a declared system emergency (EECP 1), but ultimately fulfill its contract obligation to ERCOT by turning off and remaining off after receiving a VDI regardless of any other economic incentive to remain online.

The commission agrees with ERCOT, Chaparral, TRE, and others who argued that load remaining on the system after an emergency is announced can be detrimental to the reliability of the system and further increase the need for firm load shed. If an EILS resource reduces its load before the VDI from ERCOT, but after ERCOT has declared EECP 1, as is allowed in ERCOT's proposed baseline methodology, it has provided a benefit to the system. The commission agrees that it is appropriate for an EILS resource to be compensated for such a load reduction.

In response to parties that opined ERCOT was not getting "what it paid for" because the EILS loads would not be holding back in reserve every megawatt of EILS load for which ERCOT contracted, the commission finds that the EILS service is not analogous to RRS service and holding every megawatt of EILS load online and in reserve is not necessary for the program to be effective. As ERCOT suggested, the EILS service is different but brings a reliability value to the system. By allowing the EILS loads the ability to drop consumption as early as EECP Stage 1, the system possibly could avoid moving deeper into the emergency; if the emergency does worsen, the system operator has the authority to require the EILS contract loads that have already shed to remain offline and can call any remaining EILS loads to curtail and remain offline. The ERCOT operator has concluded that this service is a useful tool to help avert firm load shed in the event of a system emergency. Moreover, ERCOT believes that the EILS program, with the baseline definition discussed above, will provide reliability benefits. The commission agrees with ERCOT with respect to both the need for this service and the likely effectiveness of the program with the definition of baseline discussed above.

Question 2: For the EILS program to be effective, participating load cannot curtail on its own leading up to an interruption. What provisions are necessary, if any, to keep load online until ERCOT calls for an interruption?

ERCOT again expressed its belief that a normalized baseline approach would be more effective than using a "snapshot" approach. ERCOT is concerned that using a "snapshot" baseline could create an incentive for EILS resources to ramp up their demand in anticipation of a likely deployment. This could create the unintended consequence of additional load showing up on the system during the early stages of an emergency. ERCOT's baseline approach would not penalize EILS resources that choose to respond to the public appeal by curtailing load prior to the EILS deployment. Accordingly, ERCOT encouraged the commission to leave intact the baseline-related language in proposed subsection (c)(3) and to allow ERCOT to operate the EILS program using its proposed baselines as detailed in PRR 705.

TRE commented that there should be no distinction between proactively reducing demand due to a market signal and reducing demand due to a reliability signal. Reduction in demand due to either assists in remedying system issues; and if these two issues are divorced from one another, the result may be that loads that would otherwise provide demand response would have to be compensated at a much higher level because they would be forced to remain on the system consuming during periods of scarcity when prices are high. TRE contended that this type of incentive neither provides the best reliability result nor rewards behavior consistent with supporting reliability.

Chaparral stated that no additional provisions were necessary or appropriate for the purpose of keeping a resource online during a potential emergency. Chaparral insisted that ERCOT should want participating loads offline during an emergency. If they are offline to begin with, they should remain offline and that should be viewed as a good thing. With respect to non-emergency periods, the baselines called for by the proposed rule are to be tailored to reflect the normal, operational characteristics of each participating EILS load; and compensation and penalties are based on individual baselines. Chaparral commented that it believes those penalties are more than sufficient to ensure that participating loads comply with their performance commitments under the program.

Nucor again disagreed with the premise of the question and argued that no additional provisions needed to be added to the rule. Nucor believed that the important point is that relevant criteria will be outlined in the contracts with EILS resource and subsection (e) of the proposed rule addresses relevant compliance issues. Nucor stated that it believes the penalties for non-compliance were stringent enough to ensure that program participants will fulfill their contractual obligations.

Oxy commented that, in order to keep loads online until ERCOT issued its VDI, a meaningful penalty for non-performance was essential. Oxy proposed that, not only should the capacity payments be recovered, but the EILS resource should be disqualified from providing EILS service for a period of time thereafter and incur an additional monetary penalty.

CPS and Austin averred that EILS participants should not curtail until called upon by ERCOT during an EECP event, meaning that they might have to endure high prices and not be price responsive. CPS and Austin proposed language be added to subsection (c)(4)(E) of the proposed rule.

CPS and Austin noted that what they argued in their comments is counter-intuitive in an energy-only market. They suggested that the EILS program has loads acting contrary to the desired behavior. Non-EILS loads should always be encouraged to respond to price signals and provisions that keep loads online that otherwise would have self-curtailed would be in contradiction to market principles. CPS and Austin also cautioned that this could result in reaching the latter steps of EECF more easily by keeping load online that would otherwise have responded to energy scarcity.

EnerNOC and Reliant both commented that, if their baseline methodologies were adopted, the proper incentives would be in place for resources to be online when an EILS curtailment VDI was issued.

Commission response

The commission agrees with parties that compliance with the parameters of the EILS programs is of paramount importance to its success. As noted in the previous discussion, the commission disagrees with Oxy and others that the parameters of the EILS program should entail having the load stay online until the VDI is issued. The commission agrees with Oxy about the consequences of non-compliance. The commission supports contract provisions that deny payment by ERCOT in cases of non-adherence to contract terms. The commission also supports disqualification from participation for a period of six months as a penalty for non-compliance. In addition, the commission reserves the right to impose administrative penalties pursuant to PURA §15.023 and P.U.C. Procedural Rule §22.246. The commission amends subsection (e) accordingly.

General Comments

Cities noted that the reliability of the ERCOT system is important to them. Yet, Cities pointed out, even in the area of reliability, cost and other practical considerations must be considered. Cities opined that the EILS as proposed would impose an additional capacity-based cost on the vast majority of consumers who would not qualify to participate and may not improve the reliability of the ERCOT system and may negatively affect reliability by ensuring that participating consumers that might otherwise be price responsive stay at their baseline while emergency conditions develop on the grid. Cities added that, under the commission's resource adequacy rule, consumers are exposed to the possibility of very high energy prices in the expectation that this will attract additional generation investment.

Reliant supported the development of demand response and deemed it a necessary condition for a successful energy-only market, reducing emissions and the need for fossil fuels. However, Reliant did not necessarily support the EILS program.

CPA also did not favor the EILS program particularly the capacity payments and stated that it dampens price responsiveness in what is supposed to be an energy-only market. CPA stated that putting ad-hoc capacity service band-aids on an energy-only market will introduce confounding variables in the market and make it difficult to analyze effectively and identify problems that may arise with the market's economic results. CPA believes that EILS is suboptimal for the following reasons:

- * There is no guarantee that the EECF will progress in a step-wise fashion or that firm load shedding will be avoided;

- * At up to \$20 million per year, the cost is likely to far outweigh the benefit to firm load customers;

- * Discouraging price-responsive behavior by more sophisticated loads will actually push ERCOT deeper into EECF conditions more frequently, possibly resulting in deployment of firm load shedding when it might otherwise not occur; and

- * Service that is dependent on verbal instructions has inherent inefficiencies.

Several parties noted events that have occurred since the April 17, 2006 load shedding event that they believe will reduce the need for this service. Reliant listed the following measures that ERCOT has taken:

- * Applied a discount factor to the amount of Responsive Reserves which effectuates the declaration of Step 1 EECF conditions more frequently;

- * Modified the EECF steps through operating guide revisions to provide ERCOT with more flexibility in communication and control steps during EECF conditions;

- * Revised its short-term and mid-term load forecasting methodologies;

- * Implemented improved frequency response metrics with monetary penalties for non-performance;

- * Received approval from EMS to back-up on-line non-spinning reserve resources by using additional Replacement Reserve Service; and

- * Proposed disqualification of Loads acting as a Resource for non-performance.

TIEC urged the commission to take a critical look at the proposed rule and to consider the serious shortcomings of the rule, such as the cost exceeds the benefit.

Xtend stated that the draft rule is analogous to the design for a great car and should be built. Xtend quoted the recent Loss of Load Probability Study and noted that a reserve margin of 10% is projected to result in five rolling blackouts in ten years.

Chaparral noted that ERCOT is going into a period in which it will be perilously close to its minimum installed reserve requirement and in which both anticipated and unanticipated adverse system load and operational conditions can be expected to increase in frequency and magnitude. Under these circumstances, it continued, every MW of suitable capacity that can be used to avoid the involuntary shedding of firm load in emergency situations should be placed under an EILS contract. Nucor agreed that the EILS was a good alternative to acquiring expensive resources when supplies are tight and/or interrupting service to customers who rely on the provision of firm service. Nucor also requested the commission issue a specific directive to ERCOT to implement the EILS program approved in this proceeding immediately; otherwise there is a real likelihood that the stakeholder process will devolve into another endless debate over implementation and participation and will neuter the effectiveness of the rule and render the commission's efforts ineffective.

Commission response

On April 17, 2006, ERCOT was forced to interrupt firm-load customers. ERCOT has stated in a public meeting at the Public Utility Commission of Texas that it believes this could have been prevented with additional resources in the form of interruptible load. The commission believes that most customers count on uninterrupted electric service, and this level of service is important as matters of comfort, convenience and safety for customers, maintaining a strong economy, and to assure continuity of essential

services to the public. ERCOT has reported that experience has shown that there is a subset of people willing to shed firm load for a price with appropriate terms and conditions and notifications for interruption. The commission agreed with this premise and allowed the ERCOT stakeholders to develop such a program to be in place prior to the 2007 spring maintenance season. The ERCOT Stakeholder process produced four PRRs but failed to agree on one proposal that was workable and that could be implemented by April 2007. The commission proposed this rule to put a program in place by April as it feels it is vitally important that ERCOT have this resource in place to avoid repeating the event of April 17, 2006. The commission finds that firm load interruptions are not acceptable, and this is the best proposal to address this challenge at this time. Therefore, the commission adopts this rule on EILS.

Austin and CPS argued that the rule should encourage Non-opt-in Entity (NOIE) participation as it would give ERCOT a greater population of load for possible selection and would allow NOIEs a way to hedge what may be large EILS charges over which they have no control.

Subsection (a)

Reliant commented that it does not believe the EILS program qualifies as an ancillary service and proposed to strike the term from the description. Reliant stated that, instead of providing daily operating reserves as an ancillary service would, EILS would only be used on those rare occasions when ERCOT is faced with shedding firm load to maintain grid reliability. Reliant also found it difficult to agree that EILS would restore system frequency when it would likely only be used to arrest frequency decay. Reliant mentioned that, while ancillary services that provide operating reserves invite participation of both generators and loads, EILS excludes generators from participation.

ERCOT noted that the definition of "ancillary service" in the ERCOT Protocols is "those services, described in ERCOT Protocols Section 6, necessary to support the transmission of energy from Resources to Loads while maintaining reliable operation of transmission provider's transmission systems in accordance with Good Utility Practice." ERCOT agreed that this service does not meet this definition and proposed to change "ancillary services" to "special emergency service."

Commission response

The commission agrees to change "ancillary" service to "special emergency" service in subsections (a) and (c) as Reliant suggested.

Nucor and EnerNOC were concerned that the sunset provision would cause the EILS to fail, or at the very least provide a disincentive to participation. EnerNOC stated that no demand response provider or customer is likely to spend time or effort investing in the EILS program only to find that the rule will change in six months or that the ERCOT stakeholder process, which it views as hostile to demand response, adopts a new design. Nucor recommended that the sunset provision be eliminated entirely and stated that, if a better program is developed (which history has shown to be an excruciatingly slow process) to replace the ERCOT program, the commission could sunset the rule at that time. Chaparral stated that October of this year is too soon for a long-term solution to be developed and recommended that these provisions be amended to sunset after the introduction of the nodal market, currently scheduled for January 2009 to allow this proposed program time to work and to allow participants more time to focus on the successful introduction of

the nodal market. CPA stated that it believes the stakeholder process will succeed in developing a demand response product to effectively satisfy ERCOT's needs without violating the principles upon which an energy-only market is based and without blunting the price signals necessary for an energy-only market to work. CPA agreed to work hard on a solution through the stakeholder process.

Commission response

The commission agrees that this program should expire when a better program is implemented. The commission also notes that the intent is for the program to continue until such time that a new program meeting the commission's goals in subsection (h) and ERCOT's requirements is put into effect, or a long term solution is in existence making this program unnecessary. The commission makes clarifications to subsection (a)(6) in accordance with this understanding.

EnerNOC also proposed two contract periods instead of three, as it appreciated that some potential EILS resources will not participate in the program from June through September because of the 4-Coincident Peak (4CP). It proposed one contract period of June - September and one eight-month contract period from October through May, which it viewed as providing the participant with more certainty and requiring fewer ERCOT resources to administer.

Commission response

The commission does not find it necessary to combine the two contract periods into one for an eight-month contract. Leaving the three contract periods allows ERCOT flexibility to procure the resource as it deems necessary. Under this scenario, ERCOT may, at its discretion, choose to procure for eight months or two four-month contracts. Therefore, the commission makes no changes to subsection (a)(1) as proposed by EnerNOC.

ERCOT proposed adding language clarifying that EILS may also be used in conjunction with interruption of firm load if events do not allow EILS use prior to interrupting firm load. TIEC stated that it was surprised that ERCOT planned to use this in conjunction with rotating outages. ERCOT clarified that it planned to use in conjunction with rotating outages during rapid deterioration or if it didn't see frequency improvements with the deployment of EILS.

Commission response

The commission proposed this rule in an effort to make the loss of firm load during emergency conditions less likely. The commission recognizes that frequency may decay quickly and require ERCOT to interrupt firm load prior to or in conjunction with the interruption of firm load. A deployment of EILS in connection with the interruption of firm load may permit less firm load to be interrupted and permit any firm load that is interrupted to be restored more quickly. Therefore, the commission makes the requested changes to the rule.

Subsection (a)(4)

CPA proposed changes to the rule that would require that the MW minimum and maximum limits be applied to all hours in a single 24-hour strip, both business and non-business hours, because an EECF event can occur at any time of the day.

Commission response

The commission believes that ERCOT should be responsible for determining when it should procure this service. The commission desires to provide ERCOT with the maximum flexibility to

operate this program and declines to put these proposed limits on the program.

Subsection (a)(5)

Nucor recommended that the minimum amount of EILS be deleted or reduced (Nucor suggested to 200 MW), as any new program may not immediately secure widespread consumer acceptance and participation. Nucor recognized that there may be some minimum threshold beneath which the EILS program might not have significant impact on an EECF event but stated that it cannot recall any historical evidence of this prior to restructuring and does not believe the commission need adopt a minimum standard as high as 500 MW prior to implementing EILS. EnerNOC argued that the 500 MW minimum procurement level was a disincentive to participation. EnerNOC stated that potential program participants could invest time and money negotiating contracts and enabling facilities for participation, only to find that ERCOT will not sponsor the program for a given contract period because fewer than 500 MW were available.

EnerNOC proposed a phase-in approach of the 500 MW allowing an opportunity to ramp up the program. ERCOT stated that procurement of less than 500 MW provides no operational value; however, it agreed that it could consider ramping up to the cap if it occurred over a short period of time.

Commission response

The commission disagrees with having a lower minimum requirement as proposed by Nucor or a phased in minimum as proposed by EnerNOC. ERCOT has consistently stated that there are no operational benefits to procuring less than 500 MW. Therefore, the commission declines to adopt the changes proposed in this section.

EnerNOC contended that limiting participation to resources with a peak demand of 500 kW or greater could make the program less cost effective. Reducing the minimum peak demand from 500 kW to 250 kW in subsection (c)(1)(B) would capture more potential load resources that have the potential to aggregate with other loads to meet the 1 MW minimum bid requirement.

ERCOT proposed 500 kW in its Protocol Revision Request as it felt this was the minimum acceptable demand that was worth the administration. Since this suggestion could potentially create an administrative burden to administer, the commission declines to accept that change. The commission disagrees that the kW amount should be reduced.

Subsection (a)(5)

TIEC suggested that the proposed rule define what ERCOT would do if it receives bids between 500 and 1000 MW for a given contract period.

Commission response

The commission believes that this rule should give ERCOT the maximum flexibility in procuring this service, within the floor and ceiling, and declines to adopt the suggestion of TIEC.

CPA suggested adding a requirement for ERCOT to geographically balance EILS across the system so that the deployment of EILS does not create unintended consequences. Potomac inquired whether ERCOT would need to do any geographic balancing. ERCOT responded that it did not anticipate a need to balance geographically unless the bids were mostly from one area. ERCOT stated that it has the ability to geographically bal-

ance in its Black Start ancillary service, and it believes the rule gives it the flexibility it needs to do so for EILS if needed.

Commission response

The commission declines to make this change. The commission finds that this rule gives ERCOT the flexibility to geographically balance EILS if ERCOT system operators believe it is necessary to do so.

Subsection (b)(3)

Chaparral opined that it is too early to establish caps for the ERCOT EILS program. Chaparral noted that, in the ERCOT stakeholder process, a number of market participants developed a wide range of estimates for a cost cap and stated that there are many calculations and assumptions that can be made to support virtually any cost cap level. Chaparral stated that the competitive market will determine what level of compensation is required to meet the program's minimum required subscription level. Chaparral suggested that the program should authorize a set level of MWs procured and then fix a cap after some market experience has been gained. Setting a program cap prior to program implementation could inadvertently ensure that the program does not attract sufficient participants to be viable, notwithstanding that the market required price for achieving the program's target subscription will likely drop as loads gain experience with this service.

Nucor recommended that the commission drop any references to an EILS cost cap in the proposed rule or, at minimum, double the suggested caps to \$35 million for 2007 and \$40 million in 2008. As a frame of reference, Nucor pointed to ERCOT's Report to the commission on Tiered Frequency Response (TFR) filed on February 1, 2007. The report noted that ERCOT spent \$158 million on RRS in 2005 and \$130 million in 2006. In contrast, the proposed EILS rule would have a cap of \$17 million in 2007, even if the participants contributed the maximum 1,000 MW to EILS.

Nucor opined that capping the EILS at too low a level runs the risk that, if the amount of funding available for the EILS program is low and the participation level high, the EILS could fail because the compensation for EILS participation does not offset the risks and costs of interruption. Nucor averred that the value in avoiding firm service interruptions annually is only worth \$20 million annually. The remedy, Nucor continued, was to set a more realistic cap or no cap at all.

Good Company opined that a \$20 million cap for 1,000 MW EILS program implies an average cost of \$20/kW-year, which is considerably lower than the prices paid for reliability-based demand resources in most other US markets or ERCOT. Good Company noted that integrated utilities offered their large industrial customers interruptible rates that reportedly cost in the \$50 per kW range. Good Company noted that the Load Acting as a Resource (LaaR) program evolved out of these interruptible power programs. The value to participants and cost to the market can be inferred from market operations reports to the ERCOT Board of Directors. The cost of RRS reported in the January 2007 report was between \$13,000 to \$17,000 per MW-hr, and \$116 kW-yr to \$147 kW-yr. Good Company noted that the cost of LaaRs is set by the generator offer stack, which in turn, reflects both operating costs and the opportunity costs of not participating in the energy market.

Good Company, EnerNOC, and Cirro noted that the value of load reductions during the 4CP months that ERCOT used in its as-

assessment of the cost of an EILS program is a misleading indicator of the cost to participants of providing demand response services. Good Company noted that the types of market participants who engage in 4CP load reduction strategies are unlikely to be prime candidates for inexpensive demand response services. For these market participants to take part in the EILS program, they would probably need to discontinue their current practices, thus raising peak demand and reducing planning reserve margins. Good Company and Cirro noted that the strategy behind 4CP reduction contemplates that a customer will have notice of a day or more before a potential 4CP event, which allows for much longer lead times than ten-minute notice of interruption. EnerNOC noted that EILS participation requirements would dictate an entirely different set of systems and costs than would participation in a 4CP program. Good Company, EnerNOC, and Cirro opined that the \$20,000 price per MW implicit in the proposed rule grossly underestimates the incentives required to encourage their participation in an EILS type program.

Good Company, EnerNOC and Cirro noted that in a similar fashion, the TXU energy efficiency standard offer load management program does not provide good information on the cost of obtaining large scale participation in the EILS. Cirro noted that the cap for the TXU program was \$19.62/kW. The TXU program, Good Company, and EnerNOC noted, has limited participation (less than 30 MW) and provides one hour notification. EnerNOC noted that the cap in the TXU program was a negotiated compromise between several stakeholder groups and should not be used in the determination of the value of EILS resources. Cirro also noted current enrollees in the TXU program might be prohibited from simultaneously participating in the EILS program.

Good Company contended that experience in other jurisdictions supports the conclusion that \$20/kW year is insufficient to garner substantial participation in this type of demand response program. Good Company asserted that programs with low payments have struggled to garner substantial participation and compliance. Programs in the ISO-NE, Connecticut, New York City, Long Island, and California, with payments that are much higher than proposed in this rule, ranging from \$7 - \$14/kW-month (\$84 - \$168/kW-year), have shown substantial participation.

Good Company averred that experience in both ERCOT and elsewhere suggested that a minimum price in the range of \$40 - \$60/kW-year will be required to induce a sufficient response by potential providers of demand response to reach the targets in the proposed rule. Cirro stated that the price cap for the program should be at the avoided cost of a peaker unit, which is about \$78/kW. EnerNOC agreed, stating that the EILS program is a replacement of peaking units that would be needed to be built to meet demand in emergency situations. Based on its experience across the U.S., EnerNOC asserted that programs with incentive levels in the \$20 - \$40/kW per year range have very low participation rates, in contrast to programs with incentive levels of \$40 - \$100+/kW, which have significantly higher enrollments. EnerNOC opined that the EILS program will fail to attract a large number of commercial customers to participate in the program who otherwise have the willingness to curtail non-essential electricity use during peak times.

Xtend recommended that the price cap for the EILS program be raised substantially in both years to \$40 - \$50/kW-year, which would increase interest by loads and would translate into significant enough payments to defray the costs and risks associated with EILS. Xtend provided reasoning for the inappropriateness

of the \$20 million cap. Xtend reasoned that \$20 million per year averages out to \$2.25 per MWh and that LaaR pays \$11 or more per MWh. Loads that can consistently shed 1 MW of load will participate in LaaR and lack economic incentives to participate in this program, which leaves the variable loads that are likely already taking advantage of 4CP programs. Xtend contended that loads less than 1 MW will need an incentive greater than this to participate in any service.

EnerNOC noted that the LaaR participation in RRS has been at the \$140/kW-year level, exceeding the payment to many DR resources in programs elsewhere in the country, making it one of the most expensive DR programs in the country.

EnerNOC opined that setting the price cap based on estimates of VOLL was flawed because estimates of VOLL vary widely.

CPS and Austin proposed to add language to subsection (b)(3) that they believe would assure the contribution of NOIEs to EILS and also would reduce the amount spent by ERCOT on the program. Under this proposal, the ERCOT budget for EILS would be reduced by the value of NOIE contribution to EILS. Without this change, the value of self-provision by NOIEs would not be recognized in the budget spent by ERCOT.

At the public hearing, TIEC, Cities, and Reliant argued against raising the cap beyond \$20 million. TIEC stated that the cost already exceeds the benefit and questioned why the cap should be higher.

Commission response

The commission finds that the \$17 million cap for the portion of year and a \$20 million cap each year thereafter is an appropriate cap for this program. This is not a service that should replace a peaking unit nor is it similar to LaaR service, which is higher in the deployment stack and faces more frequent interruptions. Essentially, this is a service provided by volunteers who agree to be interrupted at a late stage of emergency for an agreed payment. Absent this service, the participating loads risk interruption with no payment. The commission understands that this is not analogous to the 4CP avoidance strategy and the standard offer program but agrees with ERCOT that, given the structure of the EILS service, some loads should be willing to participate under the proposed cap.

Subsection (b)(6)

CPS and Austin proposed additional language that would adjust the definition of EILS resource to allow NOIEs to self-provide without adding ESI IDs to the load participating in the program.

Commission response

The commission agrees that NOIEs should be allowed to self-provide this service. However, a framework in which to accomplish this has not yet been developed. Therefore, the commission directs ERCOT to draft protocols for NOIE self-provision as soon as possible. The NOIE self-provision language shall not, however, delay the implementation of this rule.

Subsection (c)

CPS and Austin recognized that without an ESI ID, they lack the technical requirements set forth in subsection (c)(2) of the proposed rule. However, they argued that NOIEs have control over a significant portion of load resources and can allow ERCOT to access this load by "allowing NOIE self-provision and extending the metering point to where ERCOT measures NOIE load." CPS and Austin contended that adding ESI IDs to load in a NOIE's

service area would impose a financial burden and contradict their decision to opt out of competition. Further, NOIEs currently respond to ERCOT's instructions to shed firm load; and they could also voluntarily participate in EILS if ERCOT treated each NOIE as a single resource.

ERCOT agreed that NOIE participation was valuable but noted that NOIE self-provision of EILS increased the complexity of administering the program. ERCOT also pointed out that only NOIEs with boundary meters should be eligible for self-provision.

Commission response

The commission finds, that barring a large administrative burden to ERCOT, NOIEs should be eligible to participate in EILS especially given that some of the NOIEs have current demand response programs that might be a resource in this program and the ability to develop new demand response programs. The commission agrees to allow self-provision by NOIEs and directs ERCOT to develop rules for NOIE self-provision. These rules should include adequate metering of a NOIE's performance. To allow ERCOT and the market maximum flexibility, the commission supports allowing self-provision by all QSEs, to the extent that implementation is feasible and there is not undue administrative burden on ERCOT. The commission finds that this is beneficial as it could reduce the overall cost of the program to the market.

Reliant contended that the use of the EILS program with regard to deployment and metering requirements needs to be refined. Reliant proposed rule language that would increase the documentation requirements for resources participating in the EILS program by requiring EILS resources to provide metering drawings and process information to ERCOT.

Reliant contended that as subsection (c)(2)(C) of the proposed rule is written, the distinction between the deployment of LaaRs, which entails the reduction of capacity within ten minutes of a VDI from ERCOT, and the EILS program, which also has a ten-minute response requirement, needs to be clarified. Reliant argued that the proposed rule would allow load resources that go offline prior to a VDI from ERCOT to still receive EILS capacity payments.

Commission response

The commission notes that ERCOT did not see the need to require participants in this program to provide the information requested by Reliant. Therefore, the commission does not choose to require it either. Reliant's issue of loads going offline prior to a VDI is addressed in response to the questions proposed in this rulemaking.

Reliant pointed out that the current language in proposed subsection (c)(2)(D) does not specify whether a QSE is responsible for recovering capacity if EILS resources do not return ten hours after a recall from ERCOT. In the LaaRs program, a QSE must provide responsive reserves to cover the deficiencies caused by loads that do not respond to a recall. If the same requirement were set forth in the proposed rule, QSEs might be forced to contract for more EILS capacity than is actually needed to ensure sufficient response. Further, this requirement could reduce participation in the LaaRs program and voluntary load response, in general. Reliant believed that clearly defining the responsibilities of EILS resources and QSEs may help avoid this potential impediment.

Commission response

The commission believes that participating loads should be able to come back online within ten hours or the following day if the business hour or non-business hour period in which they bid has ended. The commission declines to revise the rule based on Reliant's comments.

TIEC argued that the language in subsection (c)(2)(I) should be clarified to allow independent loads to participate in more than one ancillary service program. If one portion of the load resource is under agreement to provide an ancillary service, this should not prohibit another independent load resource that is behind the same meter from participating in the EILS program. Reliant commented on the need to designate a load resource as an EILS load. Reliant's suggestion would prohibit the same independent load from participating in an ancillary service such as the LaaRs program.

Commission response

The commission understands that the baseline will capture two independent loads behind the same meter. However, the commission does not believe the rule need be amended to specifically allow that to occur.

EnerNOC argued that ERCOT's requirement that each EILS resource must provide 12 months of IDR meter data creates a barrier to entry for resources that have added IDR meters within the last year. As explained in subsection (c)(3), 12 months of data is unnecessary and does not accurately measure a load's potential availability. Subsection (c)(3)(A) should also be modified such that ERCOT would review an "EILS resource's most recent ten days of consumption in like time periods."

Commission response

The commission does not believe that EnerNOC's changes are necessary. The rule gives ERCOT the latitude to use less than 12 months of IDR data.

Reliant believed that the appropriate baseline calculation would include the load's historical demand during a contract period, including prime and non-prime hours and the load's average demand during the two hours prior to a VDI from ERCOT during an EECF event. Setting baselines using historical data from the previous 12-month period would "smooth out" the differences between seasonal and prime and non-prime load fluctuations and would provide an inaccurate conclusion regarding the load's availability.

Another proposal for the appropriate baseline calculation was submitted by TIEC. According to TIEC, the baseline should be defined as the EILS resource's load capacity in the settlement intervals prior to deployment. Therefore, the baseline would be calculated by comparing the load's estimated capacity ten minutes after the VDI from ERCOT during an EECF event to the load's average capacity in the last eight settlement periods prior to deployment, as discussed in PRR 702.

Commission response

The baseline and the commission's conclusions on this issue are discussed in response to Question 1.

EnerNOC stated that ERCOT's VDI should be accompanied by electronic deployment instructions to QSEs to mitigate the "possibility of human error" during an EECF event. ERCOT noted a concern that e-mail was not reliable and that it preferred to send an e-mail only after the VDI and only if it did not provide an additional burden to the operator.

Commission response

The commission agrees that the system operator should not be burdened during an emergency with the requirement of sending an e-mail. Since the event begins after the operator has verified that all of the resources are represented on the call, an e-mail should not be necessary.

Subsection (c)(4)(D) of the proposed rule discusses ERCOT's authority to conduct load-shedding tests for each EILS resource on an annual basis. CPA argued that ERCOT should be given the discretion to decide whether an EILS resource, including QSEs, should be tested on an annual basis or more frequently, if the situation warrants. Likewise, CPS and Austin proposed a minor clarification to this section. To ensure accurate communication among ERCOT, QSEs and EILS resources, the word "simulated" should be included in the phrase "ERCOT may conduct a load-shedding test." CPS stated that, if ERCOT conducts a test, it should decrease the allowable deployments or expect that the service will be more expensive. Oxy, CPS, and Austin argued that one of the most important goals of the EILS program is the deployment of contracted EILS resources when verbally instructed by ERCOT.

Commission response

As many parties argued, there is some concern that resources in this program will not be there when they are needed. There has been a history of LaaR failure to respond in a timely manner to the VDI instructions, and a Protocol Revision Request has been proposed to require testing of resources for that service. Given the expense of the EILS service, the commission agrees that the participants should be tested to prove that they can perform the service they have agreed to perform and for which they are receiving capacity payments. Therefore, the commission will amend the rule to require a yearly actual interruption of each participating load to test this service. This test shall not count as one of the deployments. ERCOT shall have the discretion to test in any of the three contract periods.

Subsection (d)

Austin and CPS proposed changes to accommodate NOIE self-provision of the service, specifically to eliminate the capacity payment and the charge to the NOIE for this service.

TCPA argued that language should be added to this subsection to ensure that the EIL resources are paid only when their curtailment is actually used by ERCOT to assist in an EECF event.

Commission response

The commission disagrees that this service should be paid only when there is a curtailment, as this service is a standby service and compensation is needed to entice participants to participate in this service rather than be price-responsive. As is noted above, the commission agrees that changes should be made to permit NOIEs to provide this service.

ERCOT proposed to clarify that it would publicly post the *methodology* used to develop default baselines rather than the actual baselines themselves, as the baselines are specific to each resource and would be protected information.

Commission response

The commission agrees with ERCOT and makes the appropriate change to the rule.

ARM encouraged the commission to reject the pay-as-bid approach as it is not a service subject to daily or numerous auctions

and the lack of data associated with the true value of EILS could result in distorted prices under a pay-as-bid structure until the transparency of pricing allows the true values to become known. At the public hearing, Chaparral stated that it would support a market clearing price auction. Potomac Economics expressed concern with ARM's proposal. ERCOT stated that, if there is a price cap, a clearing price model could result in a reduction of the amount of interruptible load service that ERCOT would be able to obtain, assuming that the clearing price was higher than the average price of all bids.

Commission response

The commission finds no compelling reason to change the rule as proposed. Since ERCOT has said these services may be geographically balanced if necessary, the commission finds that these are not homogeneous products and that a pay-as-bid auction will produce adequate results. Therefore, there is no reason for ERCOT to develop a market clearing price auction at this time.

Subsection (e)

CPA stated that withholding payment is an insufficient penalty for non-performance, as the penalty should be sufficient to provide a significant disincentive for enjoying the capacity payments and then choosing not to comply when needed. It recommended that the subsection be revised to include non-payment of the period of non-compliance as well as disgorgement of past capacity payments for an appropriate period.

The commission agrees that, given the cost and nature of this service, performance is very important. The commission agrees to require ERCOT to test each load participating in the service once a year, which it feels will be a strong predictor of actual performance. In addition to forfeiting all payments, the commission will institute a penalty of not allowing the EILS load to participate for six months if it fails to perform under the program and, therefore, declines to add additional penalties as suggested by CPA. See Question 2 discussion.

Subsection (h)

Oxy noted that the intent of this section appears to be to encourage ERCOT stakeholders to consider other options in lieu of EILS for avoidance of firm load shedding. Since option (4) refers to other options in combination with an EILS program, Oxy proposed to delete that option.

Commission response

The commission agrees with Oxy that the long-term approach may not require the EILS program to be operational and agrees to delete this requirement.

All comments, including any not specifically discussed herein, were fully considered by the commission. In adopting this new section, the commission makes other minor modifications for the purpose of clarifying its intent.

This new section is adopted under the Public Utility Regulatory Act, Texas Utilities Code Annotated §14.002 (Vernon 1998, Supplement 2006) (PURA) which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction and, in particular, §39.151, which provides that the commission shall adopt and enforce rules relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants. This new section also gives the commission complete authority

to oversee the budget and operations of an independent organization (such as ERCOT), to ensure that it adequately performs its functions.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 15.023 and 39.151.

§25.507. *Electric Reliability Council of Texas (ERCOT) Emergency Interruptible Load Service (EILS).*

(a) EILS procurement. ERCOT shall procure EILS, a special emergency service that is intended to be deployed by ERCOT in an Emergency Electric Curtailment Plan (EECP) event prior to or in conjunction with ERCOT instructing transmission and distribution service providers to interrupt firm load.

(1) EILS may be procured for one or more of three contract periods:

- (A) February through May;
- (B) June through September; and
- (C) October through January.

(2) Notwithstanding the foregoing, the first EILS contract period shall be from the effective date of this section through May of 2007.

(3) ERCOT may determine cost limits for each EILS contract period in order to ensure that the EILS cost cap is not exceeded.

(4) The maximum amount of EILS for which ERCOT may contract in an EILS contract period is 1,000 megawatts (MW).

(5) The minimum amount of EILS for which ERCOT may contract in an EILS contract period is 500 MW. If ERCOT does not receive enough offers to meet the required minimum amount for a period in which it seeks to procure EILS or cannot procure at least 500 MW for a period in which it seeks to procure EILS due to the EILS cap, ERCOT shall not contract for EILS.

(6) This section will no longer be effective provided the following conditions are met:

(A) An alternative long-term solution is approved in the form of a Protocol Revision that meets the requirements of subsection (h) of this section and ERCOT.

(B) The Protocol Revision is implemented so that ERCOT has a solution continuously in place with no interruption of the protection offered by EILS.

(C) If an alternative long-term solution is developed, but cannot be implemented 30 days prior to the beginning of the next contract period EILS will be extended for an additional contract period.

(b) Definitions.

(1) EILS--A special emergency service procured and used by ERCOT in accordance with this section.

(2) EILS contract period--As defined in subsection (a) of this section.

(3) EILS cost cap--The maximum amount ERCOT may spend on the EILS program in a year, February-January. The cost cap is set at \$17 Million for 2007 (April 2007 - January 2008) and \$20 Million for 2008 (February 2008 - January 2009).

(4) EILS non-prime hours--Any hours not defined as EILS prime hours.

(5) EILS prime hours--Hours occurring on a business day (as defined by ERCOT Protocols) during the time frame of hour ending 0900 through hour ending 2000.

(6) EILS resource--Load that is contracted to provide EILS.

(7) EILS time period--EILS prime hours or EILS non-prime hours.

(8) ERCOT--The professional staff of the Electric Reliability Council of Texas, Inc.

(c) Participation in EILS. In addition to requirements established by ERCOT, the following requirements shall apply for the provision of EILS:

(1) EILS bids may be submitted to ERCOT by a qualified scheduling entity (QSE) on behalf of an EILS resource.

(A) Bids may be submitted for EILS prime hours or EILS non-prime hours.

(B) The minimum amount of EILS that may be offered in a bid to ERCOT is one MW. QSEs representing EILS resources may aggregate multiple resources to reach the one MW bid requirement, provided that each Electric Service Identifier (ESI ID) in an EILS Resource aggregation has a peak demand of 500 kilowatts (kW) or greater. Such aggregated bids will be considered a single EILS resource.

(2) To qualify to participate in the EILS program, an EILS resource shall meet the technical requirements set out in this paragraph.

(A) Each EILS resource, including each EILS resource participating in an aggregated bid, shall have an ESI ID.

(B) Each EILS resource shall have a dedicated installed Interval Data Recorder (IDR) meter. If the IDR meter is not used for settlement with ERCOT, then the IDR meter and the method and format used to collect and transfer the meter data are subject to ERCOT approval. This subsection also applies to meters behind a Non-Opt-In Entity (NOIE) meter point and behind a private network's settlement meter point.

(C) An EILS resource shall be capable of reducing its load by its contracted capacity compared to its baseline capacity within ten minutes of an ERCOT verbal dispatch instruction (VDI) to its QSE and shall be capable of maintaining its performance at contracted levels for the entire period of the EILS deployment.

(D) EILS resources, once deployed, shall be able to return to their contracted operating level for providing EILS within ten hours following the recall instruction.

(E) EILS resources shall be subject to qualification, testing, and performance requirements as developed and administered by ERCOT.

(F) An EILS resource shall be registered as a Resource Entity with ERCOT.

(G) The QSE shall execute a standard form EILS agreement as developed by ERCOT.

(H) The EILS resource shall be served by a QSE qualified to provide ancillary services and capable of communicating with ERCOT and the EILS resource.

(I) An EILS resource shall not provide other ancillary services, including balancing energy services with the same capacity, while under an EILS Agreement.

(3) ERCOT shall establish an individual load baseline for each proposed EILS resource. If the EILS resource is an aggregation of ESI IDs, ERCOT shall take into account the load characteristics of each ESI ID represented by the EILS resource.

(A) ERCOT shall review IDR data from the most recent available 12-month period to determine the baseline consumption. If 12 months of IDR data is not available, ERCOT may use reliable meter data for a shorter period or from a different source, at its reasonable discretion in establishing baselines, including establishing alternate baselines for highly fluctuating batch process loads. If ERCOT does not possess sufficient data, the EILS Resource or its QSE must provide data to ERCOT according to ERCOT's specifications.

(B) The baseline shall be used to verify or establish an EILS Resource's maximum contract amount and to verify the EILS resource's performance as compared to its contracted capacity during an EILS deployment event.

(4) EILS shall be deployed by ERCOT by VDIs in a single phone call to all QSEs providing EILS.

(A) When ERCOT issues a VDI, 100% of the available contracted EILS resources shall be deployed.

(B) ERCOT may deploy EILS at any time during a settlement interval.

(C) An EILS resource shall be subject to a maximum of two deployments per EILS contract period, lasting no more than eight hours total, unless an EILS deployment is still in effect when the eighth hour lapses, in which case EILS deployment shall continue until ERCOT releases the EILS resource.

(D) ERCOT may conduct a load-shedding test of each EILS resource once a year unless the EILS resource has met its performance obligations during an EILS deployment during the preceding 12 months. ERCOT tests are not "deployments" under subparagraph (C) of this paragraph.

(d) EILS Payment and Charges.

(1) ERCOT shall pay a capacity payment to each QSE representing an EILS resource on an as-bid basis subject to modifications determined by ERCOT based on the EILS resource's availability during an EILS contract period, and the EILS resource's performance in a deployment event.

(2) ERCOT shall charge each QSE a capacity charge for EILS based upon its load ratio share during the relevant EILS time period and EILS contract period.

(3) There shall be no energy payments for providing EILS above and beyond typical load imbalance payments pursuant to the ERCOT protocols.

(4) ERCOT shall settle an EILS contract period through payments and charges on a settlement statement of a single operating day within 70 days following the completion of the EILS contract period.

(5) ERCOT shall make the following available to market participants through market notices and by posting on a publicly accessible section of the ERCOT web site:

(A) Methodology used to develop baseline formulas;

(B) Formulas used for wholesale market settlement;
and

(C) Equations used to determine an EILS resource's compliance with its obligations in an EILS deployment.

(e) Compliance. QSEs representing EILS resources are subject to penalties for failure to meet their obligations under this section. ERCOT shall withhold all or part of an EILS resource's capacity payment for a contract period and suspend participation in EILS for six months if the EILS resource fails to make its committed load available during its committed hours, or fails to meet its load reduction obligations in an EILS deployment event. In order to be reinstated after the suspension the load must demonstrate its capability of performing the service by satisfactorily performing a test conducted by ERCOT.

(f) Reporting. At the completion of each contract period, ERCOT shall review the effectiveness and benefits of the EILS and report its findings to the commission within 70 days of the completion of the contract period. The report shall contain, at a minimum, the number of MW procured in each period, the total dollar amount spent, the number and level of EECF events, and the number and duration of deployments.

(g) Implementation. ERCOT shall develop additional procedures, guides, and/or protocols that are consistent with this section and that ERCOT finds necessary to implement EILS, including but not limited to developing a standard form EILS Agreement and specific performance guidelines and grace periods for EILS Resources.

(h) Long-term solution. Any long-term solution must offer ERCOT the ability to avoid shedding firm load by bringing more resources online or curtailing load voluntarily. In this context the commission is interested in:

(1) Better price signals leading up to an EECF event;

(2) Bringing more resources (both interruptible load and generation) online through existing ancillary services; and

(3) Examining the priorities set by TDSPs when shedding firm load.

(i) Non-Opt In Entity (NOIE) Self Provision. ERCOT shall develop procedures for NOIE self provision as soon as possible. If no procedures for NOIE self-provision are developed by the effective date of this rule, ERCOT shall implement procedures no later than the beginning of the following contract period.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 21, 2007.

TRD-200701133

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

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For further information, please call: (512) 936-7223



TITLE 22. EXAMINING BOARDS

PART 22. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

CHAPTER 518. UNAUTHORIZED PRACTICE OF PUBLIC ACCOUNTANCY

22 TAC §518.3

The Texas State Board of Public Accountancy adopts an amendment to §518.3, concerning Violation of a Cease and Desist Order without changes to the proposed text as published in the February 9, 2007, issue of the *Texas Register* (32 TexReg 497). The text of the rule will not be republished.

The amendment will transfer responsibility for determining violations of Cease and Desist Orders from the Executive Committee to the Executive Director and remove certain time limits for determining administrative penalties and issuing proposals for decision.

The amendment will function by creating a more efficient process for determining violations of Cease and Desist Orders.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 22, 2007.

TRD-200701145

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Effective date: April 11, 2007

Proposal publication date: February 9, 2007

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CHAPTER 523. CONTINUING PROFESSIONAL EDUCATION

SUBCHAPTER D. STANDARDS FOR CONTINUING PROFESSIONAL EDUCATION PROGRAMS AND RULES FOR SPONSORS

22 TAC §523.142

The Texas State Board of Public Accountancy adopts an amendment to §523.142, concerning Program Time Credit Measurement without changes to the proposed text as published in the February 9, 2007, issue of the *Texas Register* (32 TexReg 498). The text of the rule will not be republished.

The amendment will remove the current method for determining credit for self-study programs.

The amendment will function by clarifying how self-study credit shall be determined.

No comments were received regarding adoption of the amendment.

The amendment is adopted under the Public Accountancy Act ("Act"), Texas Occupations Code, §901.151 which provides the agency with the authority to amend, adopt and repeal rules deemed necessary or advisable to effectuate the Act.

No other article, statute or code is affected by the adoption.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 1. GENERAL LAND OFFICE

CHAPTER 3. GENERAL PROVISIONS

SUBCHAPTER C. SERVICES AND PRODUCTS

31 TAC §3.31

The Texas General Land Office (GLO) adopts amendments to §3.31, relating to Fees. The amendments are adopted without changes to the proposed text as published in the January 19, 2007, issue of the *Texas Register* (32 TexReg 237) and will not be republished. The adopted amendment for §3.31(a)(7)(D) deletes redundant wording. The adopted amendment for §3.31(a)(7)(F) addresses the cost recovery for copies that the GLO must make while processing a vacancy application.

The adopted amendment to §3.31(a)(7)(D) will remove the word "evidence" which, upon review, staff has determined to be unnecessary. The adopted amendment to subparagraph (F) of §3.31(a)(7), will allow the GLO to charge between \$.10 and \$.50 per page for copies based on the size of the copy and whether it is a color copy. The adopted amendment will also allow the GLO to charge \$2.00 per linear foot for sketches, plats, and survey maps larger than 11 inches by 17 inches. This amendment is adopted to cover the cost of copies made by the GLO in accordance with the Vacancy Statutes as amended by the SB 1103, 79th Legislature, Regular Session (2005).

No comments were received from the public concerning the adopted rulemaking.

The amendments are adopted under §51.174(c) of the Texas Natural Resources Code, which authorizes the commissioner to adopt rules necessary and convenient to administer the vacancy subchapter.

Texas Natural Resources Code, §§51.171 - 51.195 are affected by the adopted amendments.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 22, 2007.

TRD-200701135

Trace Finley
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General Land Office
Effective date: April 11, 2007
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PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

CHAPTER 53. FINANCE

SUBCHAPTER A. FEES

DIVISION 1. LICENSE, PERMIT, AND BOAT AND MOTOR FEES

31 TAC §53.15

The Texas Parks and Wildlife Commission (commission) adopts an amendment to §53.15, concerning Miscellaneous Fisheries and Wildlife License and Permits, without changes to the proposed text as published in the September 29, 2006, issue of the *Texas Register* (31 TexReg 8193).

Under the provisions of Parks and Wildlife Code, §66.015, no person may place any species of fish, shellfish, or aquatic plant into the public water of the state without a permit issued by the department. In a notice of adoption published elsewhere in this issue of the *Texas Register*, the department creates an offshore aquaculture permit, which would be required of any person engaging in offshore aquaculture in Texas state waters.

Under Parks and Wildlife Code, §11.027, the commission, by rule, may establish and provide for the collection of a fee to cover costs associated with the review of an application for a permit required by the Parks and Wildlife Code. The review process for an offshore aquaculture permit is estimated by the department to cost approximately \$1,500, which consists of the cost of staff time to perform necessary research and analysis of facility plans, contingency plans, sources of stock, verification of genetic ancestry, and site inspection.

Under current rule, there is no fee for a one-time permit to introduce fish, shellfish, or aquatic plants, because review of such applications is perfunctory and rare. However, the department wishes to acknowledge that fact by listing the permit and the fact that it is a free permit.

The department received no comments concerning the adoption of the proposed amendment.

The amendment is adopted under Parks and Wildlife Code, §11.027, which authorizes the commission to establish and provide for the collection of a fee to cover costs associated with the review of an application for a permit required by the Parks and Wildlife Code.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 22, 2007.

TRD-200701136

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Proposal publication date: September 29, 2006
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CHAPTER 57. FISHERIES

SUBCHAPTER C. INTRODUCTION OF FISH, SHELLFISH AND AQUATIC PLANTS

The Texas Parks and Wildlife Commission adopts the repeal of §§57.251 - 57.257 and new §§57.251 - 57.259, concerning Introduction of Fish, Shellfish, and Aquatic Plants. New §§57.251 - 57.254, 57.256, and 57.257 are adopted with changes to the proposed text as published in the September 29, 2006, issue of the *Texas Register* (31 TexReg 8194). The repeal of §§57.251 - 57.257 and new §§57.255, 57.258 and 57.259 are adopted without changes and will not be published.

The adopted change to §57.251, concerning Definitions, consists of two alterations. In §57.251(6) the phrase 'direct or indirect' is replaced with the phrase 'intentional or unintentional' for the sake of clarity. By referring to direct or indirect importation, the department's intent was to provide for purposeful and accidental incidents of importation; however, it is much clearer to refer to intentional and unintentional importation.

The adopted change to §57.251(8) replaces the reference to 'nine nautical miles' with the phrase 'three marine leagues.' Although the terms are synonymous, the Natural Resources Code, §11.012, uses the marine league measurement.

The adopted change to §57.252, concerning General Provisions, reorganizes the section, as follows.

Proposed §57.252(i) is adopted as new subsection (b) and is altered to provide that a permit may not be sold or transferred without department approval.

Proposed §57.252(b) is adopted as new subsection (d)(1).

Proposed §57.252(c) is adopted as new subsection (d)(2) and is altered to clarify that the provisions apply only to the offshore aquaculture permit.

Proposed §57.252(d) is adopted as new subsection (c) and is altered to clarify that the provisions apply to the one-time, no-cost introduction permit and not to the offshore aquaculture permit.

Proposed §57.252(e) is adopted as new subsection (d)(3) and is altered to provide for a maximum period of validity of five years for an offshore aquaculture permit. The provision as proposed stipulated a one-year period of validity; however, public comment persuaded the department to adopt a longer period. The comment and the agency's reasoning are addressed later in this preamble.

Proposed §57.252(f) is adopted as new subsection (d)(4).

Proposed §57.252(g) is adopted as new subsection (d)(5).

Proposed §57.252(h) is adopted as new subsection (d)(6).

The change to §57.252 also adds a new subsection, adopted as subsection (e), to stipulate notification requirements. The requirements are also contained in §57.258, concerning Prohibited

Acts, and have been reproduced in §57.252 for the sake of clarification.

The adopted change to §57.252 also adds a new subsection, adopted as subsection (f), to clarify that the release of undersized fish and fish in excess of a bag limit, and the use of fish as bait as part of lawful fishing activities does not require a permit under the subchapter. The change is necessary to prevent angler confusion.

The adopted change to §57.252 also adds a new subsection, adopted as subsection (g), to state that an employee of the department, acting at the direction of the executive director, is exempt from the permit requirements of the subchapter. The change is necessary to explicitly acknowledge that employees of the department, when performing assigned duties, are not subject to regulation under the subchapter.

The adopted change to §57.253, concerning Permit Application, alters the provisions of subsection (c)(2)(E) to clarify that harvest and removal timelines apply on an enclosure-by-enclosure basis, not on a cumulative, facility-wide basis. The change is necessary to ensure that the department is able to monitor operations at a suitable level of resolution.

The adopted change to §57.254, concerning Denial, restructures the section to more clearly separate provisions that apply to offshore aquaculture from provisions that apply to the one-time, no-cost introduction permit.

The adopted change to §57.256, concerning Amendment, replaces the word 'merit' in subsection (a)(4) with the word 'warrant.' The word 'warrant' is used elsewhere in the section, and the department wished to avoid the inference that the use of a different word indicates a different meaning. The change also alters subsection (b) to clarify that the delineated prohibitions apply to any person who commits them.

The adopted change to §57.257, concerning Reporting and Recordkeeping, alters subsection (b) to clarify that annual reports are due by January 15 of each year. The use of the term 'annual report' was intended to convey this meaning; however, the department feels that clarification is necessary.

Parks and Wildlife Code, §12.015, requires the department to regulate the introduction and stocking of fish, shellfish, and aquatic plants into the public water of the state. Under Parks and Wildlife Code, §66.015, the department is required to adopt rules governing the issuance of permits for the introduction of fish, shellfish, and aquatic plants into public waters. Additionally, Agriculture Code, Chapter 134, requires the department to adopt rules to carry out its duties under that chapter.

The adopted new sections replace existing rules that treated the introduction of aquatic organisms as permanent releases. The new rules preserve the current function while adding additional regulatory provisions to govern offshore aquaculture.

The permanent introduction of fish, shellfish, and aquatic plants to the public waters is generally authorized for extremely limited reasons and only when the department has determined the introduction will not conflict with management policies or objectives and will not result in negative biological impacts to existing ecosystems. For instance, an introduction permit might be issued to a university researcher returning stock to the wild following research activities. Because the introduction permit is rarely used, there is no fee.

The adopted new sections create an offshore aquaculture permit. Although offshore aquaculture is being practiced elsewhere in the world, it is in its infancy in the United States in general and the Gulf of Mexico specifically. In 2005 and 2006, federal legislation was introduced that directed the National Oceanic and Atmospheric Administration (NOAA) to establish procedures for the development of an offshore aquaculture industry in the Exclusive Economic Zone (EEZ), which is the federal jurisdiction extending from the seaward boundary of state waters out to 200 miles. The proposed legislation prompted several inquiries concerning the development of offshore aquaculture in Texas state waters.

The adopted new rules prescribe the procedures and conditions for operating an offshore aquaculture facility and implement the department's responsibilities under Agriculture Code, Chapter 134, by providing protection for marine resources in the wild, including endangered species.

The regulation of offshore aquaculture involves both state and federal jurisdictions. With respect to state agencies, the Texas Department of Agriculture (TDA) is the primary agency responsible for regulating aquaculture; the Texas Commission on Environmental Quality (TCEQ) has primary responsibility for establishing and enforcing water quality standards; the Texas General Land Office (GLO) is responsible for managing state-owned submerged lands; the Texas Animal Health Commission (TAHC) is responsible for management of animal disease necessary to protect agriculture; and the Texas Department of State Health Services (TDSHS) is the primary agency for protecting human health and safety, including seafood safety.

The United States Army Corps of Engineers (COE) and the United States Coast Guard (USCG) are responsible for establishing maritime navigation standards and the identification, marking, and mitigation of navigational hazards.

The department's statutory responsibility is to protect the health and viability of native populations of fish, shellfish, and aquatic life in state waters, including endangered species. In general, the new rules prescribe the conditions under which marine species may be introduced into an offshore aquaculture facility without damaging surrounding water and marine resources.

It is the intent of this adopted rulemaking that individuals applying to the various agencies for their necessary permissions be able to do so simultaneously so that the many needed reviews, inspections, and other activities can be accomplished in the minimum amount of time. However, the rule also specifies that all of these other permissions be obtained before the permit is approved by TPWD.

New §57.251, concerning Definitions, establishes terms necessary to carry out the provisions of the subchapter and allows for efficient enforcement and administration. The definition of 'aquaculture' is necessary to broadly describe one activity regulated by the subchapter. The definition of 'aquatic plant' is necessary to delineate the types of vegetative life which, when introduced into public waters, are subject to regulation under the subchapter. The definition of 'disease condition' is necessary to create an unambiguous criterion for departmental actions to protect aquatic animal life in public waters. The definition of 'enclosure' is necessary to create a term for the specific infrastructure within which aquaculture may take place and to which certain provisions of the subchapter apply. The definition of 'fishing' is necessary to clearly distinguish the recreational pursuit, take, and possession of aquatic life from activities undertaken for cap-

ture of aquatic life for commercial purposes within an aquaculture facility. The definition of 'native species' is necessary because the proposed rules do not allow for the introduction or cultivation of exotic species; therefore, the rule must define native species. The definition of 'offshore aquaculture facility' is necessary to acknowledge that, in addition to the enclosures where stock is kept, there may be ancillary equipment and structures used in the aquaculture process and to include such infrastructure in the applicability of the subchapter. The definition of 'outside waters' is necessary to identify the broad geographical area in which offshore aquaculture operations are lawful. The definition of 'shellfish' is necessary to create a description of a class of organisms subject to regulation under this subchapter if cultivated. The definition of 'stock' is necessary to create a term that differentiates native species of fish that are possessed under a permit from native species that are the property of the state. The definition of 'waste' is necessary to create a term for the purposes of regulating the biological effluvia produced within an offshore aquaculture facility.

Adopted new §57.252, concerning General Provisions, restricts permit issuance to individual; restricts offshore aquaculture to specific geographic areas and genetically indigenous stock; establishes the period of validity for permits issued under the subchapter; and delineates the conditions under which the department may order the removal of stock from an offshore aquaculture facility. The adopted rule restricts the issuance of permits to named individuals only, which was determined to be the most efficient method of administering, monitoring, and enforcing the subchapter. The rule limits the operational area for permitted activities to a specific Outer Continental Shelf (OCS) Block. The provision is necessary for effective biological and compliance monitoring and to delimit the geographical boundaries of permitted operations. The department does not intend for an offshore aquaculture permit to authorize the operation of an unlimited number of enclosures. The intent of limiting permitted activities to an OCS block is to provide enough space for viable operation of an offshore aquaculture facility while at the same time limiting the dispersion of permitted activities in order to provide for efficient monitoring efforts. The department has determined that it is necessary to restrict aquacultural cultivation in offshore waters to fish, shellfish, and aquatic plants that are genetically descended from species native to the Gulf of Mexico. The marine life in the Gulf of Mexico has evolved over many thousands of years in response to the unique environmental characteristics. The introduction of individuals from the same species but from another part of the world is, in effect, the introduction of exotic alleles that may have the potential to interact with native species in unpredictable ways, affecting life-cycle factors such as hardiness, reproductive potential, food competition, and biodiversity. Therefore, the department has chosen to use a precautionary approach to management of offshore aquaculture facilities. By restricting aquaculture activities to native organisms, the potential for unforeseen genetic consequences is reduced and probably eliminated.

Adopted new §52.252(c) establishes the period of validity for both the one-time introduction and offshore aquaculture permits issued under the subchapter. Permits for one-time introductions will be valid for 60 days or until the introduction is completed, whichever occurs first. The 60-day period is believed to provide sufficient time for a permittee to conduct the activities authorized under a permit.

Adopted new §52.252(d)(3) establishes that an offshore aquaculture permit is valid for a period of up to five years from the

date of issuance. Adopted new §52.252(d)(4) authorizes the department to inspect enclosures, infrastructure, and vessels used to engage in offshore aquaculture. The provision is necessary to ensure compliance with applicable statutes, regulations, and permit provisions.

Adopted new §52.252(d)(5) authorizes the department to order the removal of stock from an offshore aquaculture facility upon determining the existence of disease conditions or upon certain enforcement actions by a state or federal agency that result in revocation or suspension of a permit, approval, or clearance. Offshore aquaculture inherently implicates an array of regulatory arenas such as environmental quality and navigation. As part of the application process set forth in §57.253, concerning Permit Application, the department requires proof that the applicant possesses all necessary approvals, clearances, and permits required by other state and federal agencies with regulatory jurisdiction over an aspect of the applicant's prospective operations. Having required such proof as a condition of permit issuance, it follows that revocation or suspension by a regulatory agency of a permit, approval, or clearance would mean the permittee no longer satisfies the department's requirements for permit issuance. The department believes that, in some cases, it might be necessary to order the removal of stock and the cessation of operations in order to protect native populations.

Adopted new §52.252(e) establishes notification requirements for the removal of fish from a facility, the discovery of a disease condition within a facility or damage to a facility, and requires all equipment and facility infrastructure to be removed with 10 days of permit expiration or termination.

Adopted new §57.253(a) - (c) set forth the requirements for and content of an application for a permit issued under the subchapter. Adopted new §57.253(a) establishes a minimum time period of 30 days for the department to review the application for an introduction permit that authorizes a one-time release in the waters of the state. Adopted new §57.253(c)(1) establishes a requirement that the application for an offshore aquaculture facility be received at least 90 days prior to any proposed deployment of an enclosure or aquaculture facility. The 30-day period is the minimum time needed for the department to evaluate a one-time release proposal. Ninety days are necessary to review an offshore aquaculture proposal given the greater complexity of the application and need for review of all operational aspects of the facility. With respect to the information required on an application for an offshore aquaculture permit, subsection (c) will require the following types of information to be submitted: evidence of compliance with other laws and rules; particulars of facility design; timelines for proposed activities; contingency plans; and evidence that all stock are or will be native Gulf of Mexico genotypes. The department believes it would be inadvisable to issue an offshore aquaculture permit to any person not in compliance with all other applicable laws. A discussion of the rationale for this occurs earlier in this preamble.

Adopted new §57.253(c) also requires an application for an offshore aquaculture permit to include a clear and concise facility design and operating plan, including plans and schematics, sufficient to prevent the escape of stock or the entry into the facility of wild aquatic animal resources and to protect wildlife resources from disease transmission, waste discharge, and injurious interaction with enclosures and infrastructure. These provisions are necessary to ensure that practical measures have been taken to ensure that wildlife resources outside the proposed facility are protected from negative effects resulting from flaws in design and

planning. The three areas of greatest concern are interaction between wild and cultivated populations, water quality impacts, and physical contact by wild organisms with enclosures and infrastructure. The department believes that it is reasonable to require design and planning sufficient to mitigate preventable conditions that could lead to unwanted developments with respect to wildlife resources and to contemplate contingency actions for implementation in the event that contingency action plans must be put into action. The subsection also requires an application to include a timeline for proposed activities, which is necessary for the department to monitor and evaluate offshore aquaculture activities and to ensure that unauthorized releases or augmentations do not occur. For instance, if a permittee's application indicates that one thousand fingerlings are to be introduced to an enclosure on a certain date and to be harvested three months later, the department would be able to determine at any point in time whether all activities had taken place as authorized.

Adopted new §57.253(c)(2)(C) requires an application to include a plan for the removal of all stock from a facility. As previously discussed, the nature of offshore aquaculture creates the potential for the existence of circumstances that could require the removal of stock, for instance, the discovery in an enclosure of a pathogen that threatened wildlife resources. The department believes it is sensible and prudent to require a contingency plan for such an event. The subsection also requires an application to include a statement that the ancestry of all stock will be exclusively from Gulf of Mexico genotypes. The rationale for this requirement has been discussed earlier in this preamble. The subsection also requires a facility inspection to be performed by the department as a prerequisite for permit issuance. The provision is necessary in order to ensure that enclosures and associated infrastructure are consistent with the description and depictions contained in the permit application and that the facility is anchored appropriately.

Adopted new §57.254, concerning Permit Denial, prescribes the conditions under which the department would automatically refuse to issue or renew a permit or refuse to authorize an amendment to a permit. The adopted section is necessary because there are certain circumstances under which the department would not authorize new or continued activities, such as a proposed activity that is inconsistent with the department's stocking policy or management objectives or, in the case of an offshore aquaculture permit, an application that is not complete. The department's oversight of introductions to the wild is delineated by rule in the department's stocking policy (31 TAC Chapter 52). Additionally, various management plans and research activities are required by statute for various marine species (Texas Parks and Wildlife Code, §66.018 (Crabs); §66.217 (Finfish); §76.301 (Oysters); §77.007 (Shrimp)), and represent the department's efforts to execute its duties to protect and manage wildlife resources. Clearly, the rules are consistent with the overall direction and tenor of these efforts. Thus, the provisions of this section constitute a reasonable safeguard for wildlife resources.

Adopted new §57.255, concerning Permit Renewal, establishes the process by which a person could renew an offshore aquaculture permit. The adopted rule requires that the applicant for renewal have been in compliance with the provisions of the subchapter for the one-year period prior to application for renewal and that the facility be in compliance with all applicable standards. Additionally, the adopted section stipulates that the department will not renew an expired permit. The adopted rule is necessary to provide for the operation of an offshore aquaculture

facility on a year-to-year basis without interruption, provided the applicant and the facility are in compliance with all applicable laws and regulations.

Adopted new §57.256, concerning Permit Amendment, prescribes the process for amending an existing permit to allow for changes in operation or stock. The amendment is necessary because any type of animal husbandry is by nature a dynamic process subject to changes; therefore, the department desires to provide a mechanism by which a permittee may adjust or alter a facility or stock within a facility, provided the changes do not conflict with the provisions of the subchapter.

Adopted new §57.257, concerning Reporting and Recordkeeping, requires offshore aquaculture permittees to maintain records of all stock introduced or removed and submit an annual report to the department. The adopted rule also requires permittees to furnish such records upon request of a department employee acting within the scope of official duties. The adopted rule is necessary to allow the department to monitor offshore aquaculture activities.

Adopted new §57.258, concerning Prohibited Acts, sets forth general and specific actions and conditions that are prohibited. The adopted section makes it unlawful to violate a condition of a permit. The department reasons that, when a permit is issued to an individual, it is under the expectation that the permittee understands and intends to obey all applicable legal provisions. The provision is necessary to explicitly acknowledge that expectation. The adopted section also prohibits the addition or removal of stock without at least three days' advance notice to the department. The provision is necessary to allow the department to monitor activities involving the actual transfer of live fish, shellfish, or aquatic plants to or from an offshore aquaculture facility. The department believes that the three-day requirement is reasonable.

Adopted new §57.259, concerning Violations and Penalties, prescribes the potential penalty for a violation of the subchapter or a provision of a permit issued under the subchapter. The adopted section is necessary to stipulate the punishment for conviction for a violation of the subchapter.

Comments made by the public concerning the proposed rules were presented to the Texas Parks and Wildlife Commission. Two public hearings were held October 17 and 19, 2006, in addition to the hearing at the Texas Parks and Wildlife Commission meeting on November 2, 2006. The department received comments from a total of nine individuals on the proposed regulations, seven were in support of the proposal and two were opposed.

Two of the commenters suggested the following changes be made to the proposal before adoption:

COMMENT: One individual commented on a number of issues related to deadlines and permit validity and suggested the sections dealing with these issues were confusing and in need of reorganization.

AGENCY RESPONSE: The agency agrees that the proposed rule may have been confusing and responds by reorganizing §57.252, concerning General Provisions, so that there is a clearer distinction between provisions that apply to offshore aquaculture and those that apply to one-time releases into public waters.

COMMENT: One individual commented by stating that having a permit valid only for one year at a time would preclude a suc-

cessful venture because of the difficulty of obtaining needed financing from lending institutions that could not be assured that the venture would persist long enough to repay loans.

AGENCY RESPONSE: The agency agrees with the comment and responds to the comment by amending the proposal at §57.252(d)(3) to allow a permit to be issued for a period of time not to exceed five years.

COMMENT: One individual commented by stating that restricting the definition of "native species" to species found in the Gulf of Mexico without qualifiers would provide no real protection from individuals that might escape an enclosure and would be prohibitive for a facility starting up for the first time.

AGENCY RESPONSE: The agency disagrees with the comment and responds that the department has determined that it is necessary to restrict aquaculture in offshore waters to fish, shellfish, and aquatic plants solely originating or descended from individuals originating from the Gulf of Mexico due to genetic concerns. The marine life in the Gulf of Mexico has evolved over many thousands of years in response to the unique environmental characteristics found within the Gulf of Mexico. The introduction of individuals of the same species but from another part of the world is, in effect, the introduction of exotic genotypes that will have the potential to interact with the native adapted genotypes in unpredictable ways. Genetic introgression of exotic alleles into the native adaptive gene-complexes may negatively alter life-cycle factors such as hardiness, reproductive potential, food competition, and genetic biodiversity of the native population. Therefore, the department has chosen to use a precautionary approach to management of offshore aquaculture facilities. By restricting aquaculture activities to organisms solely originating or descended from individuals originating from the Gulf of Mexico, the potential for unforeseen genetic consequences is reduced and probably eliminated. No changes were made as a result of the comment.

COMMENT: One individual commented by stating that defining a "disease condition" as existing by reaching a 5% death loss was too broad a definition and should be changed.

AGENCY RESPONSE: The agency disagrees with the comment and responds that the definition is very concise and unambiguous. The threat of a disease that might be introduced, incubated, and dispersed by individuals in an enclosure to wild individuals in adjacent waters is a possibility. While introduction of a disease is more or less instantaneous, numbers of incubating individuals and dispersal rates of the disease both accelerate geometrically with the passage of time. It is, therefore, important that potentially infectious individuals be removed immediately from enclosures in open water and returned only when they are found not to be contagious. No changes were made in response to the comment.

COMMENT: One individual commented by stating that it was not fair to require the depopulation of a "facility" if a disease condition existed in only one pen and this should be changed.

AGENCY RESPONSE: The agency disagrees with the comment and responds that the definition was intended to apply to a single enclosure over a specific amount of time and that intent should have been clear from the language of the rule itself. The rules also indicate that the department "may" order the removal upon determination that a disease exists. The department has some discretion based on the type and extent of disease and will make a determination on a case-by-case basis. No changes were made in response to the comment.

COMMENT: One individual commented by stating that the 5 circumstances that require amendment to a permit were unnecessary, should be handled in a more informal manner than formal amendment, and would result in many amendments.

AGENCY RESPONSE: The agency disagrees with the comment and responds that the department needs to have a formal process for review of changes to the permit. This allows the department to review the change/alteration in the previous plan to determine whether the amendment is consistent with the management policies and objectives of the department's management of coastal resources. No changes were made in response to the comment.

31 TAC §§57.251 - 57.257

The repeals are adopted under Parks and Wildlife Code, §12.015, which requires the department to regulate the introduction and stocking of fish, shellfish, and aquatic plants into the public water of the state; §66.015(c), which requires the department to establish rules related to the issuance of permits for the introduction of fish, shellfish, or aquatic plants into the public water of the state; and Agriculture Code, §134.005, which requires the commission to adopt rules necessary to carry out its responsibilities under that chapter to regulate aquaculture.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on March 22, 2007.

TRD-200701137

Ann Bright

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



31 TAC §§57.251 - 57.259

The new sections are adopted under Parks and Wildlife Code, §12.015, which requires the department to regulate the introduction and stocking of fish, shellfish, and aquatic plants into the public water of the state; §66.015(c), which requires the department to establish rules related to the issuance of permits for the introduction of fish, shellfish, or aquatic plants into the public water of the state; and Agriculture Code, §134.005, which requires the commission to adopt rules necessary to carry out its responsibilities under that chapter to regulate aquaculture.

§57.251. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Aquaculture--The business of producing and selling cultured species raised in private facilities.
- (2) Aquatic plant--All plants whose seeds germinate in either the water phase or the substrate of a body of water and which must spend part of the life cycle in water (Reid, G.K., and R.O. Wood 1976, Ecology of Inland Waters and Estuaries).
- (3) Disease condition--

(A) The presence of contagious pathogens or injurious parasites known or clinically suspected of constituting a threat to the health of native species of aquatic organisms; or

(B) A mortality rate of five percent or more occurring within a period of seven days in a single enclosure.

(4) Enclosure--A structure in public water that is capable of preventing the escape of the stock confined within it and the entry of aquatic animal life from surrounding waters.

(5) Fishing--Taking or attempting to take aquatic animal life by any means.

(6) Native species--All fish, shellfish, or aquatic plants documented by the department to live, spawn, or reproduce in Texas offshore waters and whose first documented occurrence in Texas offshore waters was not the result of intentional or unintentional importation by man.

(7) Offshore aquaculture facility--All enclosures and associated infrastructure used to produce, hold, propagate, transport, or sell stock under authority of an offshore aquaculture permit.

(8) Outside waters--All the salt water of the state contiguous to and seaward from the shoreline of the state, along the Gulf of Mexico as the shoreline is projected and extended in a continuous and unbroken line, following the contours of the shoreline, across bays, inlets, outlets, passes, rivers, streams, and other bodies of water; including that portion of the gulf of Mexico from the shoreline extending outward three marine leagues (Natural Resources Code §11.012).

(9) Shellfish--Aquatic species of crustaceans and mollusks, including oysters, clams, shrimp, prawns, and crabs of all varieties.

(10) Stock--Native species of fish, shellfish, or aquatic plants intended for use in, being transported to, or contained within an offshore aquaculture facility under the terms of an offshore aquaculture permit.

(11) Waste--As defined in Water Code, §26.001.

§57.252. General Provisions.

(a) A permit issued under this subchapter shall be issued to a named individual only and not in the name of a corporation, company, or other entity.

(b) A permit issued under this subchapter shall not be sold or transferred except with the approval of the department.

(c) A one-time introduction permit, for releases other than those made into an offshore aquaculture facility, is valid for 60 days from the date of issuance or until the permitted introduction has been completed, whichever comes first.

(d) For offshore aquaculture facilities:

(1) An offshore aquaculture permit authorizes permitted activities in a specific Outer Continental Shelf Block.

(2) The offshore aquaculture permit shall be issued only for the cultivation of native species. Upon request the permittee shall provide the form and type of evidence requested by the department that the individuals are:

(A) obtained from the Gulf of Mexico; or

(B) descended solely from individuals obtained from the Gulf of Mexico.

(3) An offshore aquaculture permit shall be valid from the date of issuance until the date of expiration, but for no longer than 5 years after the issuance date.

(4) The department may inspect:

(A) any enclosure or infrastructure used to engage in offshore aquaculture; or

(B) vessel used to transport stock and equipment to and from an offshore aquaculture facility.

(5) The department may order the removal of all stock from an enclosure upon:

(A) a determination that a disease condition exists; or

(B) an enforcement action by a federal or state agency resulting in the suspension or revocation of a clearance, permit, or authorization that is required under §57.253 of this title (relating to Permit Application).

(6) The department may sample stock to determine genetic lineage.

(e) A holder of an offshore aquaculture permit must:

(1) notify the department at least three calendar days prior to the placing of any fish, shellfish, or aquatic plant into public water;

(2) notify the department at least three calendar days prior to removing any fish, shellfish, or aquatic plant from an offshore aquaculture facility;

(3) notify the department immediately upon discovering that a disease condition exists within an offshore aquaculture facility;

(4) notify the department immediately upon determining that an offshore aquaculture facility has been damaged and the threat of the unintentional release of stock exists; and

(5) remove all enclosures and associated infrastructure from public waters within 10 calendar days of permit expiration or revocation.

(f) A permit is not required for any person, while fishing, to place goldfish (*Carassius auratus*), common carp (*Cyprinus carpio*), native shrimp, crabs, crawfish and nongame fish into public waters or to immediately release any fish that does not comply with size and bag limits for that species.

(g) An employee of the department acting at the direction of the executive director is exempt from the permit requirements specified by these sections.

§57.253. Permit Application.

(a) An applicant for a permit under this subchapter shall complete and submit an application to the department on a form supplied by the department, accompanied by the fee prescribed by §53.15 of this title (relating to Miscellaneous Fisheries and Wildlife Licenses and Permits).

(b) Except for applications for offshore aquaculture permits, an application must be received by the department at least 30 days before the proposed introduction.

(c) An application for an offshore aquaculture facility:

(1) must be received by the department at least 90 days prior to the proposed deployment of any enclosure or infrastructure;

(2) must include:

(A) The name, address, and telephone number of the owner(s) of the facility and all stock;

(B) proof that the applicant has obtained:

(i) a valid license issued by the Texas Department of Agriculture to operate an aquaculture facility (Agriculture Code Chapter 134);

(ii) all applicable state and/or federal permits or authorizations relating to water quality standards;

(iii) all applicable state and federal permits, authorizations, or clearances related to navigational hazards; and

(iv) approval from the General Land Office to anchor the facility;

(C) a clear and concise facility design, including scale plans and schematics of all infrastructure that, as determined by the department, is sufficient to:

(i) prevent the escape of stock from the facility; and

(ii) protect wildlife resources adjacent to the facility from:

(I) disease transmission from stock;

(II) the discharge of pollutants produced from feed or waste materials into public waters, including discharges resulting directly or indirectly from extreme weather conditions or physical collision;

(III) the escape of stock from the facility as a result of extreme weather conditions or physical collision; and

(IV) death or injury from ensnarement, entanglement, collision, or other physical interactions with enclosures or facility infrastructure;

(D) a clear and concise operations plan, which shall include best management practices that minimize potentially harmful discharges into public waters from the facility;

(E) a prospective timeline of proposed activities, by species, from the time of introduction to the time of harvest or removal for each enclosure;

(F) a plan for removing all stock from the facility within 72 hours of notice from the department under §57.252 of this title (relating to General Provisions); and

(G) a statement that all stock meets the requirements of §57.252 of this title.

(d) An offshore aquaculture permit will not be issued unless the department has conducted an inspection of all enclosures and infrastructure and found such to be consistent with the information provided in the application.

§57.254. Denial.

A permit application, permit renewal, or permit amendment under this subchapter will be denied if:

(1) concerning an application for one time introduction:

(A) the application, renewal or amendment does not meet the requirements of §§52.101 - 52.401 of this title (concerning Stocking Policy); or

(B) the proposed introduction is not consistent with management objectives of the department; or

(2) concerning an application for an offshore aquaculture facility, the application does not contain or inadequately addresses the requirements of §57.253(c) of this title (relating to Permit Application).

§57.256. Amendment.

(a) An offshore aquaculture permit may be amended, provided the applicant:

(1) has complied with all requirements of this subchapter and permit provisions during the one-year period immediately preceding the date of the application for amendment;

(2) has complied with all applicable requirements of §57.253 of this title (relating to Permit Application);

(3) has completed and submitted an application for permit amendment; and

(4) the amendment is not extensive enough to warrant an additional facility inspection. An amendment extensive enough to warrant an additional facility inspection shall be treated as an application for a new permit and the provisions of §57.253 of this title shall apply.

(b) Prior to approval of a permit amendment, no person shall:

(1) introduce new species of stock to a facility;

(2) discontinue any species of stock in a facility;

(3) change the source of stock;

(4) modify methods, procedures, facility design, or facility infrastructure affecting:

(A) the physical components of the facility;

(B) the prevention of escape of stock from the facility; or

(C) the discharge of pollutants from the facility; or

(5) change the physical structure or components of an enclosure.

(c) An application for a permit amendment must be submitted within 10 days of any change in ownership of the facility or stock.

(d) The department will not amend an expired permit.

§57.257. Reporting and Recordkeeping.

(a) An offshore aquaculture permittee shall maintain and keep current an accurate daily record of all stock introduced or removed from each enclosure within a facility, including mortalities.

(b) An offshore aquaculture permittee shall complete and submit an annual report to the department on a form supplied by the department by no later than January 15 of every year.

(c) While performing any permitted activity within or in transit to or from an offshore aquaculture facility, a person must physically possess a legible copy of the offshore aquaculture permit under which the activity is being performed.

(d) The records required by this section shall be made available to the department upon the request of a department employee acting within the scope of official duties.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Ann Bright
General Counsel
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For further information, please call: (512) 389-4775



TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 16. COMMERCIAL DRIVERS LICENSE

SUBCHAPTER D. SANCTIONS AND DISQUALIFICATIONS

37 TAC §16.100

The Texas Department of Public Safety adopts amendments to §16.100, concerning Sanctions and Disqualifications, without changes to the proposed text as published in the January 26, 2007, issue of the *Texas Register* (32 TexReg 285).

Adoption of amendments to §16.100 are necessary in order to change the name of the title and to clarify to the courts that the information in the rule is necessary at the conviction level and not the citation level.

No comments were received regarding adoption of the amendments.

The amendments are adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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Thomas A. Davis, Jr.

Director

Texas Department of Public Safety

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For further information, please call: (512) 424-2135



TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 16 TAC §401.307(g)(5)

Pick 3 Prize Chart Exact Order Play

Cost of Play	Prize
\$.50	\$250
\$1	\$500
\$2	\$1,000
\$3	\$1,500
\$4	\$2,000
\$5	\$2,500

Odds: 1:1,000

Figure: 16 TAC §401.307(g)(6)

Pick 3 Prize Chart 3-Way Any Order Play

Cost of Play	Prize
\$.50	\$80
\$1	\$160
\$2	\$320
\$3	\$480
\$4	\$640
\$5	\$800

Odds: 1:333

Figure: 16 TAC §401.307(g)(7)

Pick 3 Prize Chart 6-Way Any Order Play

Cost of Play	Prize
\$.50	\$40
\$1	\$80
\$2	\$160
\$3	\$240
\$4	\$320
\$5	\$400

Odds: 1:167

Figure: 16 TAC §401.307(g)(8)

**Pick 3 Prize Chart
Exact Order/3-Way Any Order Play**

Pick 3 Base Play Amount	Cost of Play	Exact Order Match	Match Not in Exact Order
\$.50	\$1	\$330	\$80
\$1	\$2	\$660	\$160
\$2	\$4	\$1,320	\$320
\$3	\$6	\$1,980	\$480
\$4	\$8	\$2,640	\$640
\$5	\$10	\$3,300	\$800

Odds: 1:333

Figure: 16 TAC §401.307(g)(9)

**Pick 3 Prize Chart
Exact Order/6-Way Any Order Play**

Pick 3 Base Play Amount	Cost of Play	Exact Order Match	Match Not in Exact Order
\$.50	\$1	\$290	\$40
\$1	\$2	\$580	\$80
\$2	\$4	\$1,160	\$160
\$3	\$6	\$1,740	\$240
\$4	\$8	\$2,320	\$320
\$5	\$10	\$2,900	\$400

Odds: 1:167

Figure: 16 TAC §401.307(g)(10)

**Pick 3 Prize Chart
Combo Play**

Pick 3 Base Play Amount	Cost of 3-Way Combo Play	Cost of 6-Way Combo Play	Prize
\$.50	\$1.50	\$3	\$250
\$1	\$3	\$6	\$500
\$2	\$6	\$12	\$1,000
\$3	\$9	\$18	\$1,500
\$4	\$12	\$24	\$2,000
\$5	\$15	\$30	\$2,500

Odds 3-Way: 1:333

Odds 6-Way: 1:167

Figure: 16 TAC §401.307(g)(11)

**Pick 3 Prize Chart
Sum it Up**

Sum Picked	Cost of Sum it Up Play = \$.50	Cost of Sum it Up Play = \$1	Cost of Sum it Up Play = \$2	Cost of Sum it Up Play = \$3	Cost of Sum it Up Play = \$4	Cost of Sum it Up Play = \$5	Odds
0 or 27	\$250	\$500	\$1,000	\$1,500	\$2,000	\$2,500	1:1,000
1 or 26	\$83	\$166	\$333	\$500	\$666	\$833	1:333
2 or 25	\$41	\$83	\$166	\$250	\$333	\$416	1:167
3 or 24	\$25	\$50	\$100	\$150	\$200	\$250	1:100
4 or 23	\$16	\$33	\$66	\$100	\$133	\$166	1:67
5 or 22	\$11	\$23	\$47	\$71	\$95	\$119	1:48
6 or 21	\$8	\$17	\$35	\$53	\$71	\$89	1:36
7 or 20	\$6	\$13	\$27	\$41	\$55	\$69	1:28
8 or 19	\$5	\$11	\$22	\$33	\$44	\$55	1:22
9 or 18	\$4	\$9	\$18	\$27	\$36	\$45	1:18
10 or 17	\$3	\$7	\$15	\$23	\$31	\$39	1:16
11 or 16	\$3	\$7	\$14	\$21	\$28	\$36	1:14
12 or 15	\$3	\$6	\$13	\$20	\$27	\$34	1:14
13 or 14	\$3	\$6	\$13	\$20	\$26	\$33	1:13

Note: The cost of a Sum it Up play is in addition to the cost of the connected play. For example, if a player selects a 3-Way Combo play for a base play amount of \$1, the cost of the combo play would be \$3. If the player chose to play Sum it Up for a base play amount of \$.50, the cost of the two plays together would be \$3.50.

Figure: 16 TAC §401.316(g)(5)

**Daily 4 Prize Chart
Straight Play**

Cost of Play	Prize
\$.50	\$2,500
\$1	\$5,000
\$2	\$10,000
\$3	\$15,000
\$4	\$20,000
\$5	\$25,000

Odds: 1:10,000

Figure: 16 TAC §401.316(g)(6)

**Daily 4 Prize Chart
4-Way Box Play**

Cost of Play	Prize
\$.50	\$600
\$1	\$1,200
\$2	\$2,400
\$3	\$3,600
\$4	\$4,800
\$5	\$6,000

Odds: 1:2,500

Figure: 16 TAC §401.316(g)(7)

**Daily 4 Prize Chart
6-Way Box Play**

Cost of Play	Prize
\$.50	\$400
\$1	\$800
\$2	\$1,600
\$3	\$2,400
\$4	\$3,200
\$5	\$4,000

Odds: 1:1,667

Figure: 16 TAC §401.316(g)(8)

**Daily 4 Prize Chart
12-Way Box Play**

Cost of Play	Prize
\$.50	\$200
\$1	\$400
\$2	\$800
\$3	\$1,200
\$4	\$1,600
\$5	\$2,000

Odds: 1:833

Figure: 16 TAC §401.316(g)(9)

**Daily 4 Prize Chart
24-Way Box Play**

Cost of Play	Prize
\$.50	\$100
\$1	\$200
\$2	\$400
\$3	\$600
\$4	\$800
\$5	\$1,000

Odds: 1:417

Figure: 16 TAC §401.316(g)(10)

**Daily 4 Prize Chart
Straight/4-Way Box Play**

Daily 4 Base Play Amount	Cost of Play	Exact Order Match	Match Not in Exact Order
\$.50	\$1	\$3,100	\$600
\$1	\$2	\$6,200	\$1,200
\$2	\$4	\$12,400	\$2,400
\$3	\$6	\$18,600	\$3,600
\$4	\$8	\$24,800	\$4,800
\$5	\$10	\$31,000	\$6,000

Odds: 1:2,500

Figure: 16 TAC §401.316(g)(11)

**Daily 4 Prize Chart
Straight/6-Way Box Play**

Daily 4 Base Play Amount	Cost of Play	Exact Order Match	Match Not in Exact Order
\$.50	\$1	\$2,900	\$400
\$1	\$2	\$5,800	\$800
\$2	\$4	\$11,600	\$1,600
\$3	\$6	\$17,400	\$2,400
\$4	\$8	\$23,200	\$3,200
\$5	\$10	\$29,000	\$4,000

Odds: 1:1,667

Figure: 16 TAC §401.316(g)(12)

**Daily 4 Prize Chart
Straight/12-Way Box Play**

Daily 4 Base Play Amount	Cost of Play	Exact Order Match	Match Not in Exact Order
\$.50	\$1	\$2,700	\$200
\$1	\$2	\$5,400	\$400
\$2	\$4	\$10,800	\$800
\$3	\$6	\$16,200	\$1,200
\$4	\$8	\$21,600	\$1,600
\$5	\$10	\$27,000	\$2,000

Odds: 1:833

Figure: 16 TAC §401.316(g)(13)

**Daily 4 Prize Chart
Straight/24-Way Box Play**

Daily 4 Base Play Amount	Cost of Play	Exact Order Match	Match Not in Exact Order
\$.50	\$1	\$2,600	\$100
\$1	\$2	\$5,200	\$200
\$2	\$4	\$10,400	\$400
\$3	\$6	\$15,600	\$600
\$4	\$8	\$20,800	\$800
\$5	\$10	\$26,000	\$1,000

Odds: 1:417

Figure: 16 TAC §401.316(g)(14)

**Daily 4 Prize Chart
Combo Play**

Daily 4 Base Play Amount	Cost of 4-Way Combo Play	Cost of 6-Way Combo Play	Cost of 12-Way Combo Play	Cost of 24-Way Combo Play	Prize
\$.50	\$2	\$3	\$6	\$12	\$2,500
\$1	\$4	\$6	\$12	\$24	\$5,000
\$2	\$8	\$12	\$24	\$48	\$10,000
\$3	\$12	\$18	\$36	\$72	\$15,000
\$4	\$16	\$24	\$48	\$96	\$20,000
\$5	\$20	\$30	\$60	\$120	\$25,000

Odds 4-Way Combo: 1:2,500

Odds 6-Way Combo: 1:1,667

Odds 12-Way Combo: 1:833

Odds 24-Way Combo: 1:417

Figure: 16 TAC §401.316(g)(15)

**Daily 4 Prize Chart
Front-Pair, Mid Pair, and Back-Pair Play**

Cost of Play	Prize
\$.50	\$25
\$1	\$50
\$2	\$100
\$3	\$150
\$4	\$200
\$5	\$250

Odds: 1:100

Figure: 16 TAC §401.316(g)(16)

**Daily 4 Prize Chart
Sum it Up**

Sum Picked	Cost of Play = \$.50	Cost of Play = \$1	Cost of Play = \$2	Cost of Play = \$3	Cost of Play = \$4	Cost of Play = \$5	Odds
0 or 36	\$2,500	\$5,000	\$10,000	\$15,000	\$20,000	\$25,000	1:10,000
1 or 35	\$625	\$1,250	\$2,500	\$3,750	\$5,000	\$6,250	1:2,500
2 or 34	\$250	\$500	\$1,000	\$1,500	\$2,000	\$2,500	1:1,000
3 or 33	\$125	\$250	\$500	\$750	\$1,000	\$1,250	1:500
4 or 32	\$71	\$142	\$285	\$428	\$571	\$714	1:286
5 or 31	\$44	\$89	\$178	\$267	\$357	\$446	1:179
6 or 30	\$29	\$59	\$119	\$178	\$238	\$297	1:119
7 or 29	\$20	\$41	\$83	\$125	\$166	\$208	1:83
8 or 28	\$15	\$30	\$60	\$90	\$121	\$151	1:61
9 or 27	\$11	\$22	\$45	\$68	\$90	\$113	1:45
10 or 26	\$8	\$17	\$35	\$53	\$70	\$88	1:35
11 or 25	\$7	\$14	\$28	\$43	\$57	\$71	1:29
12 or 24	\$6	\$12	\$24	\$36	\$48	\$60	1:24
13 or 23	\$5	\$10	\$20	\$31	\$41	\$52	1:21
14 or 22	\$4	\$9	\$18	\$27	\$37	\$46	1:19
15 or 21	\$4	\$8	\$16	\$25	\$33	\$42	1:17
16 or 20	\$3	\$7	\$15	\$23	\$31	\$39	1:16
17 or 19	\$3	\$7	\$15	\$22	\$30	\$37	1:15
18	\$3	\$7	\$14	\$22	\$29	\$37	1:15

Note: The cost of a Sum it Up play is in addition to the cost of the connected play. For example, if a player selects a 4-Way Combo play for a base play amount of \$1, the cost of the combo play would be \$4. If the player chose to play Sum it Up for a base play amount of \$.50, the cost of the two plays together would be \$4.50.

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Texas Department of Agriculture

Extension of Deadline for Applications for the Catfish Grant Program

In accordance with Section 3012 of the Agricultural Disaster Assistance Act of 2006, the Commodity Credit Corporation (CCC) will provide a grant to the Texas Department of Agriculture (TDA) for distribution to eligible catfish producers adversely affected by the 2005 hurricanes. TDA is extending the deadline for eligible Texas producers to submit applications for the Catfish Grant Program. The original application deadline of March 30, 2007 has been extended to April 13, 2007.

Eligibility Criteria. To be eligible for assistance funds the catfish producer must meet the following criteria:

1. Must have suffered catfish feed losses caused by the 2005 hurricanes;
2. Must have raised catfish in a controlled environment as part of a farming operation during the covered period;
3. Must have had a risk in the production of such catfish;
4. Must have not already received, or receive in the future, assistance funds covered under any other Federal program for the same catfish feed losses;
5. Must have records on file at an applicable Farm Service Agency (FSA) county office indicating compliance with (i) adjusted gross income limitations contained in section 1001D of the Food Security Act of 1985 and (ii) conservation compliance provisions according to regulations found at 7 CFR Part 23; and
6. Must have had a catfish operation suffering feed losses located in one of the following 42 counties: Anderson, Angelina, Austin, Brazoria, Cass, Chambers, Cherokee, Fort Bend, Galveston, Gregg, Grimes, Hardin, Harris, Harrison, Henderson, Houston, Jasper, Jefferson, Leon, Liberty, Madison, Marion, Matagorda, Montgomery, Morris, Nacogdoches, Newton, Orange, Panola, Polk, Rusk, Sabine, San Augustine, San Jacinto, Shelby, Smith, Trinity, Tyler, Upshur, Walker, Waller and Wharton.

Covered Losses. Funds can only be paid for documented catfish feed losses incurred because of the 2005 hurricanes. No farming operation may receive more than \$80,000 in fund payments under this grant program, except for general partnerships and joint ventures whose assistance shall not exceed \$80,000 times the number of members that constitute the general partnership or joint venture.

Submitting an Application. Applications were accepted beginning **February 16, 2007**. Applications are available on TDA's Web site at: www.agr.state.tx.us, or available upon request from TDA by calling (512) 936-0761. Applications must be received at TDA headquarters in Austin by the deadline provided below, and addressed to: Catfish Grant Program, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711 or faxed to (888) 203-5567. Applications must be certified by the applicant and include supporting documentation for losses claimed. Documentation must be provided before the applicant will be paid. **Applicants will not be reimbursed for losses already claimed**

and reimbursed under this Grant Program or any other Federal program, including the Aquaculture Grant Program administered by TDA.

Applicants will also be required to complete an application for a State of Texas Payee ID number, as part of the application for the catfish assistance funds, if they do not already have this number on file with the Office of the State Comptroller.

Deadline for Submission of Applications. Applications must be received by TDA by **April 13, 2007**.

The amount of assistance provided to each eligible catfish producer shall be the result of multiplying the number of tons of catfish feed purchased in 2005 by the producer, times \$39, the 2005 average 30-day catfish feed supply rate per ton. In the event that the sum of the total amount of eligible claims submitted for catfish grants in all eligible states plus the total amount of eligible claims submitted under 2005 Livestock Compensation Program exceeds \$95 million, each payment to an individual catfish producer shall be reduced by a uniform national percentage, as determined by CCC. TDA will distribute funds after all valid applications are processed and funds are received from the U.S. Department of Agriculture.

Further Information. Additional information about the catfish grant program and application process can be found on TDA's website. In addition, catfish producers may contact Cary Dupuy, Federal and Trade Specialist, TDA at (512) 936-0761 or cary.dupuy@agr.state.tx.us, for more information.

TRD-200701199

Dolores Alvarado Hibbs

Deputy General Counsel

Texas Department of Agriculture

Filed: March 28, 2007

Office of the Attorney General

Request for Applications (RFA) for the Other Victim Assistance Grant (OVAG) Program

The Crime Victim Services Division (CVSD) of the Office of the Attorney General (OAG) is soliciting local and statewide applications for projects that provide victim-related services or assistance. The purpose of the OAG OVAG program is to provide funds, using a competitive allocation method, to programs that address the unmet needs of victims by maintaining or increasing their access to quality services.

Applicable Funding Source for OVAG: The Texas Code of Criminal Procedure, Article 56.541(e) authorizes the OAG to use money appropriated from the Texas Compensation to Victims of Crime Fund for grants or contracts supporting victim related services or assistance. All funding is contingent upon an appropriation to the OAG by the Texas Legislature. The OAG makes no commitment that an application, once submitted, or a grant, once funded, will receive subsequent funding.

Eligibility Requirements:

Eligible Applicants: Local units of government, non-profit agencies with 26 U.S.C. 501(c)(3) status; and state agencies are eligible to apply for an OVAG.

Eligibility: The OAG will initially screen each application for eligibility. Applications will be deemed ineligible if the application is submitted by an ineligible applicant; the application is not filed in the manner and form required by the RFA; the application is filed after the deadline established in the RFA; or the application does not meet other requirements as stated in the RFA and the Application Kit.

How to Obtain Application Kit: The OAG will post the Application Kit on the OAG's official agency website at <http://www.oag.state.tx.us/victims/grants2008.shtml>. Updates and other helpful reminders about the application process will also be posted at this location. Potential applicants are encouraged to refer to this site regularly.

Deadlines and Filing Instructions for the Grant Application:

Deadline: The applicant must submit its application, including all required attachments, to the OAG and the OAG must receive the submitted application and all required attachments by 5:00 p.m. CST May 18, 2007 to be considered timely filed.

Filing Instructions: To meet the deadline, the Applicant must submit both paper (hard copies) and electronic (e-mail) documents. An Application will be considered filed when the OAG receives the paper (hard copies) and the electronic (e-mail) of the Application in the following ways by the required deadline:

(1) Paper (hard copies) - Via Next Day Air Overnight delivery service (Federal Express, United Parcel Service, DHL or Lone Star):

* The Applicant must submit one original and three hard copies of the complete Application (Excel workbook and all attachments).

* The complete Application (Excel workbook and all attachments) must be sent to the following address:

CVS GRANTS APPLICATIONS - MC 005

OFFICE OF THE ATTORNEY GENERAL

300 W 15TH ST RM 102

AUSTIN, TX 78701-1649

* The original and three hard copies must be received by 5:00 p.m. CST on May 18, 2007.

(2) Electronic - Via E-mail:

* The Applicant must submit the Excel workbook.

* The Excel workbook must be sent to the following e-mail address: CVSGrantsApplications@oag.state.tx.us

* The e-mail must be received by 5:00 p.m. CST on May 18, 2007.

The OAG will **not** consider an Application if it is not filed by the due date, 5:00 pm CST on May 18, 2007.

Minimum and Maximum Amounts of Funding Available: The minimum amount of funding all programs may apply for is \$20,000 per fiscal year. The maximum amount a local program may apply for is \$50,000 per fiscal year. The maximum amount a statewide program may apply for is \$220,000 per fiscal year.

Start Date and Length of Grant Contract Period: The grant contract period (term) is up to two years from September 1, 2007 through August 31, 2009, subject to and contingent on funding and/or approval by the OAG.

No Match Requirements: There are no match requirements for OVAG projects.

Limited Volunteer Requirements: All non-governmental OVAG Applicants must use volunteers in some way to support the mission of their organization.

Award Criteria: The OAG will make funding decisions that support the efficient and effective use of public funds. Scoring components will include, but are not limited to, information provided by the applicant on the proposed project activities and budget. OVAG funding decisions will use a competitive allocation method.

OVAG Purpose Area: All OVAG projects must address one or more of the OVAG purpose areas: providing direct victim services including, but not limited to, counseling, crisis intervention, assistance with Crime Victim's Compensation, legal assistance, victim advocacy, and information and referral; providing outreach or community education to help identify crime victims who might not otherwise be reached and provide or refer them to needed services; connecting crime victims to services for the purpose of supporting or assisting in their recovery; training professionals and volunteers to improve their ability to inform victims of their rights, to assist victims in their recovery, or to establish a continuum of care for victims; or other support for victim related services or assistance as determined by the OAG.

Staffing: All OVAG projects must:

(a) Include one direct service staff person working at least 20 hours per week or two direct service staff persons working at least 10 hours each per week in the applicant's budget.

(b) Include at least 75% of the applicant's budget in the personnel and fringe budget categories.

In addition, an applicant may not include more than three administrative positions, providing administrative support to the OVAG project.

Preference: The OAG reserves the right to consider all other appropriations or funding an applicant currently receives when making funding decisions. The OAG may give priority to applicants that do not receive other sources of funding, including funding that originates from the Texas Compensation to Victims of Crime Fund. The OAG reserves the right to give priority to programs that provide direct victim services with grant funds, that provide information and education about victims' rights in their community, or that utilize volunteers in providing services. The OAG reserves the right to give priority to programs that provide services in certain geographic or programmatic areas. The OAG may award OVAG funds to programs that applied for another OAG grant program.

Prohibitions on Use of Grant Funds: OAG grant funds may not be used to support or pay the costs of overtime, out of state travel, dues, or lobbying; any portion of the salary or any other compensation for an elected government official; the purchase of food and beverages except as allowed under Texas State Travel Guidelines; the purchase or lease of vehicles; the purchase of promotional items or recreational activities; costs of travel that are unrelated to the direct delivery of services that support the OAG funded program; the costs for consultants or vendors who participate directly in writing a grant application; or for any unallowable costs set forth in applicable state or federal law, rules, regulations, guidelines, policies, procedures or cost principles. Grant funds may not be used to purchase any other products or services the OAG identifies as inappropriate or unallowable within this RFA or the Application Kit.

OAG Contact Person: If additional information is needed, contact Madeline Enriquez at CVSGrantsApplications@oag.state.tx.us or (512) 936-6397.

TRD-200701183
Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: March 27, 2007



Request for Applications (RFA) for the Victim Coordinator and Liaison Grant (VCLG) Program

The Crime Victim Services Division (CVSD) of the Office of the Attorney General (OAG) is soliciting applications for projects that provide victim-related services or assistance. The purpose of the OAG VCLG program is to fund the victim assistance coordinator and crime victim liaison positions for the purposes set forth in the Texas Code of Criminal Procedure, Article 56.04.

Applicable Funding Source for VCLG: The Texas Code of Criminal Procedure, Article 56.541(e), authorizes the OAG to use money appropriated from the Texas Compensation to Victims of Crime Fund for grants or contracts supporting victim related services or assistance. All funding is contingent upon an appropriation to the OAG by the Texas Legislature. The OAG makes no commitment that an application, once submitted, or a grant, once funded, will receive subsequent funding.

Eligibility Requirements:

Eligible Applicants: A local criminal prosecutor, defined as a district attorney, a criminal district attorney, a county attorney with felony responsibility, or a county attorney who prosecutes criminal cases, may apply for a grant to fund the position of a victim assistance coordinator. A local law enforcement agency, defined as the police department of a municipality or the sheriff's department of any county, may apply for a grant to fund the position of crime victim liaison.

Eligibility: The OAG will initially screen each application for eligibility. Applications will be deemed ineligible if the application is submitted by an ineligible applicant; the application is not filed in the manner and form required by the RFA; the application is filed after the deadline established in the RFA; or the application does not meet other requirements as stated in the RFA and the Application Kit.

How to Obtain Application Kit: The OAG will post the Application Kit on the OAG's official agency website at <http://www.oag.state.tx.us/victims/grants2008.shtml>. Updates and other helpful reminders about the application process will also be posted at this location. Potential applicants are encouraged to refer to this site regularly.

Deadlines and Filing Instructions for the Grant Application:

Deadline: The applicant must submit its application, including all required attachments, to the OAG; and the OAG must receive the submitted application and all required attachments by 5:00 p.m. CST May 18, 2007 to be considered timely filed.

Filing Instructions: To meet the deadline, the Applicant must submit both paper (hard copies) and electronic (e-mail) documents. An Application will be considered filed when the OAG receives the paper (hard copies) and the electronic (e-mail) of the Application in the following ways by the required deadline:

(1) Paper (hard copies) - Via Next Day Air Overnight delivery service (Federal Express, United Parcel Service, DHL or Lone Star):

* The Applicant must submit one original and three hard copies of the complete Application (Excel workbook and all attachments).

* The complete Application (Excel workbook and all attachments) must be sent to the following address:

CVS GRANTS APPLICATIONS - MC 005
OFFICE OF THE ATTORNEY GENERAL
300 W 15TH ST RM 102
AUSTIN, TX 78701-1649

* The original and three hard copies must be received by 5:00 p.m. CST on May 18, 2007.

(2) Electronic - Via E-mail:

* The Applicant must submit the Excel workbook.

* The Excel workbook must be sent to the following e-mail address: CVSGrantsApplications@oag.state.tx.us

* The e-mail must be received by 5:00 p.m. CST on May 18, 2007.

The OAG will **not** consider an Application if it is not filed by the due date, 5:00 p.m. CST on May 18, 2007.

Minimum and Maximum Amounts of Funding Available: The minimum amount of funding a program may apply for is \$20,000 per fiscal year. The maximum amount a program may apply for is \$39,000 per fiscal year.

Start Date and Length of Grant Contract Period: The grant contract period (term) is up to two years from September 1, 2007 through August 31, 2009, subject to and contingent on funding and/or approval by the OAG.

No Match and/or Volunteer Requirements: There are no match and/or volunteer requirements for VCLG projects.

Award Criteria: The OAG will make funding decisions that support the efficient and effective use of public funds. Scoring components will include, but are not limited to, information provided by the applicant on the proposed project activities and budget.

VCLG Purpose Area: All VCLG projects must be used for victim assistance coordinator and/or crime victim liaison positions for the purposes set forth in Texas Code of Criminal Procedure, Article 56.04.

Staffing: All VCLG projects must:

(a) Include one direct service staff person working at least 20 hours per week or two direct service staff persons working at least 10 hours each per week in the applicant's budget.

(b) Include at least 75% of the applicant's budget in the personnel and fringe budget categories.

Preference: The OAG reserves the right to consider all other appropriations or funding an applicant currently receives when making funding decisions. The OAG may give priority to applicants that do not receive other sources of funding, including funding that originates from the Texas Compensation to Victims of Crime Fund. The OAG reserves the right to give priority to programs that provide direct victim services with grant funds, that provide information and education about victims' rights in their community, or that utilize volunteers in providing services. The OAG reserves the right to give priority to programs that provide services in certain geographic or programmatic areas. The OAG may award Other Victim Assistance Grant (OVAG) funds to programs that would otherwise be eligible for funding under the VCLG program.

Prohibitions on Use of Grant Funds: OAG grant funds may not be used to support or pay the costs of overtime, out-of-state travel, dues, or lobbying; any portion of the salary or any other compensation for

an elected government official; the purchase of food and beverages except as allowed under Texas State Travel Guidelines; the purchase or lease of vehicles; the purchase of promotional items or recreational activities; costs of travel that are unrelated to the direct delivery of services that support the OAG funded program; the costs for consultants or vendors who participate directly in writing a grant application; or for any unallowable costs set forth in applicable state or federal law, rules, regulations, guidelines, policies, procedures, or cost principles. Grant funds may not be used to purchase any other products or services the OAG identifies as inappropriate or unallowable within this RFA or the Application Kit.

OAG Contact Person: If additional information is needed, contact Steven Lord at CVSGrantsApplications@oag.state.tx.us or (512) 936-0364.

TRD-200701184
Stacey Napier
Deputy Attorney General
Office of the Attorney General
Filed: March 27, 2007

Texas Building and Procurement Commission

Notice of Award

The Texas Building and Procurement Commission (TBPC), on behalf of the Texas Council on Purchasing from People with Disabilities (TCPPD), announces the award of a contract for Central Non-Profit Agency Services as solicited in Request for Proposal #303-7-10740. The contract has been awarded to TIBH Industries, Incorporated by vote of the TCPPD at its quarterly meeting held on March 23, 2007.

For further information contact TBPC Statewide Procurement, Attention: David Bennett, fax: (512) 236-6161, e-mail: david.bennett@tbpc.state.tx.us or through the *Electronic State Business Daily*: <http://esbd.tbpc.state.tx.us/>. Then enter Req. No. "303-7-10740" in the blank provided and click FIND.

TRD-200701155
Ingrid K. Hansen
General Counsel
Texas Building and Procurement Commission
Filed: March 23, 2007

Request for Proposal

The Texas Building and Procurement Commission (TBPC), on behalf of the Texas Department of Public Safety (DPS), announces the issuance of Request for Proposal (RFP) #303-7-11362. TBPC seeks a Ten (10) Year lease of approximately 4000 square feet of office space in the Houston area, Harris County, Texas, specifically within an area bound as follows: Beginning at the intersection of U.S. Highway 59 and Tidwell Road, East on Tidwell Road to C.E. King Parkway to Beaumont Highway; Northeast on Beaumont Highway to Uvalde Road; South on Uvalde Road to IH-10; West on IH-10 to U.S. Highway 59; North on U.S. Highway 59 to Tidwell Road.

The deadline for questions is April 9, 2007 and the deadline for proposals is April 17, 2007 at 3:00 PM. The award date is May 31, 2007. TBPC reserves the right to accept or reject any or all proposals submitted. TBPC is under no legal or other obligation to execute a lease on the basis of this notice or the distribution of an RFP. Neither this notice nor the RFP commits TBPC to pay for any costs incurred prior to the award of a grant.

Parties interested in submitting a proposal may obtain information by contacting TBPC Purchaser Myra Beer at (512) 463-5773. A copy of the RFP may be downloaded from the *Electronic State Business Daily* at: http://esbd.tbpc.state.tx.us/1380/bid_show.cfm?bidid=69696.

TRD-200701153
Ingrid K. Hansen
General Counsel
Texas Building and Procurement Commission
Filed: March 23, 2007

Coastal Coordination Council

Notice and Opportunity to Comment on Requests for Consistency Agreement/Concurrence Under the Texas Coastal Management Program

On January 10, 1997, the State of Texas received federal approval of the Coastal Management Program (CMP) (62 Federal Register pp. 1439 - 1440). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the CMP goals and policies identified in 31 TAC Chapter 501. Requests for federal consistency review were deemed administratively complete for the following project(s) during the period of March 16, 2007, through March 22, 2007. As required by federal law, the public is given an opportunity to comment on the consistency of proposed activities in the coastal zone undertaken or authorized by federal agencies. Pursuant to 31 TAC §§506.25, 506.32, and 506.41, the public comment period for these activities extends 30 days from the date published on the Coastal Coordination Council web site. The notice was published on the web site on March 28, 2007. The public comment period for these projects will close at 5:00 p.m. on April 27, 2007.

FEDERAL AGENCY ACTIONS:

Applicant: James E. Buescher; Location: The project is located along the shore of Copano Bay, at 3633 Copano Drive, in Rockport, Aransas County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Rockport, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 689,456; Northing: 3,107,920. Project Description: The applicant proposes to construct two breakwaters consisting of concrete riprap for the purpose of creating calm-water mooring for boats at an existing boathouse and pier. The western breakwater (10' x 85' x 2.5') will consist of 79 cubic yards of riprap; and the eastern breakwater (10' x 100' x 2.5') will consist of 93 cubic yards of riprap, for a total of 172 cubic yards of material. A shallow draft barge will be utilized to conduct the work. Silt curtains will be incorporated during and upon completion of the project for sedimentation control. In addition, an existing platform constructed parallel to the shoreline will be removed. CCC Project No.: 07-0135-F1; Type of Application: U.S.A.C.E. permit application #SWG-2007-288 is being evaluated under §10 of the Rivers and Harbors Act of 1899 (33 U.S.C.A. §403) and §404 of the Clean Water Act (33 U.S.C.A. §1344).

Pursuant to §306(d)(14) of the Coastal Zone Management Act of 1972 (16 U.S.C.A. §§1451 - 1464), as amended, interested parties are invited to submit comments on whether a proposed action is or is not consistent with the Texas Coastal Management Program goals and policies and whether the action should be referred to the Coastal Coordination Council for review.

Further information on the applications listed above may be obtained from Ms. Tammy Brooks, Consistency Review Coordinator, Coastal Coordination Council, P.O. Box 12873, Austin, Texas 78711-2873, or tammy.brooks@glo.state.tx.us. Comments should be sent to Ms. Brooks at the above address or by fax at (512) 475-0680.

TRD-200701186
Larry L. Laine
Chief Clerk/Deputy Land Commissioner, General Land Office
Coastal Coordination Council
Filed: March 27, 2007



Notice of Funds Availability - Texas Coastal Management Program Grants Program

The Coastal Coordination Council (Council) files this Notice of Funds Availability to announce the availability of §306/§306A federal grant funds under the Texas Coastal Management Program (CMP). The purpose of the CMP is to improve the management of the state's coastal resources and to ensure the long-term ecological and economic productivity of the coast.

A federal award to the state of approximately \$2 million in §306/§306A funding is expected in October 2008. The Council, which oversees the implementation of the CMP, passes through approximately 90% of the available §306/§306A funds to eligible entities in the coastal zone to support projects that implement and/or advance the CMP goals and policies.

Eligible Applicants

The following entities are eligible to receive grants under the CMP.

1. Incorporated cities in the coastal zone.
2. County governments in the coastal zone.
3. Texas state agencies.
4. Texas universities (including colleges and institutions of higher education).
5. Subdivisions of the state with jurisdiction in the coastal zone (e.g., navigation districts, port authorities, river authorities, and Soil and Water Conservation Districts with jurisdiction in the coastal zone).
6. Councils of governments and other regional governmental entities in the coastal zone.
7. The Galveston Bay Estuary Program.
8. The Coastal Bend Bays and Estuaries Program
9. Nonprofit organizations located in Texas that are nominated by an eligible entity in categories 1 - 8 above. A nomination may take the form of a resolution or letter from a responsible official of an entity in categories 1 - 8. The nominating entity is not expected to financially or administratively contribute to the management and implementation of the proposed project.

Funding Categories

The Council will accept applications for projects that address any of the following funding categories. The categories are not listed in order of preference.

1. Coastal Natural Hazards Response
2. Critical Areas Enhancement
3. Shoreline Access
4. Water Quality Improvement
5. Waterfront Revitalization and Ecotourism Development
6. Permit Streamlining/Assistance and Governmental Coordination
7. Information and Data Availability

8. Public Education and Outreach

Grant workshops will be held in five coastal cities to help potential applicants through the Guidance and Application Package. Grant workshops are opportunities for potential applicants to learn about the changes made to the grant program and to discuss specific project ideas with staff. Applicants are not required to attend a workshop, but attendance is strongly encouraged for first-time and/or inexperienced applicants who are unfamiliar with the CMP application process.

Current subrecipients of CMP grant funding and their financial staff are also encouraged to attend the grant workshops. Project management training will be held immediately following the grant guidance and application portion of the workshop to educate subrecipients of the administrative requirements once a contract is executed. Project management training will cover the progress report, invoice, local match, budget amendment, timesheet, and equipment forms.

May 2, 2007, 10:30 a.m., Port Lavaca, City Hall, 202 N. Virginia.

May 15, 2007, 10:30 a.m., Corpus Christi, Texas A&M University--Natural Resources Center, 6300 Ocean Drive, Room 1003.

May 16, 2007, 9:00 a.m., Port Isabel, Port Isabel Housing Authority--Community Center, 100 Hockaday.

May 23, 2007, 10:30 a.m., Port Arthur, City Hall, 444 Fourth Street, 5th Floor.

May 24, 2007, 9:00 a.m., Galveston, Holbrook Annex Building, 601 Tremont, Hearing Room.

To obtain a copy of the Guidance and Application Package, please contact Melissa Porter at (512) 475-1393, (800) 998-4GLO or at melissa.porter@glo.state.tx.us. The requirements to receive federal grant funds are outlined in the guidance. Written requests for the Guidance and Application Package should be addressed to: Coastal Coordination Council, CMP Grants Program, c/o Texas General Land Office (GLO), P.O. Box 12873, Austin, Texas 78711-2873. The Guidance and Application Package is also available on the GLO's website at: <http://www.glo.state.tx.us/coastal/grants/index.html>.

The deadline for receiving draft grant applications is Wednesday, June 20, 2007 by 5:00 p.m. Submission of a draft grant application is optional but is strongly recommended for first-time and/or inexperienced applicants who are unfamiliar with the CMP application process, applicants who have an idea for a new and/or innovative project, applicants who are uncertain if a project is eligible under this grant program, or applicants submitting research projects. Written comments will only be provided to applicants who submit draft grant applications by June 20, 2007 by 5:00 p.m. The deadline for receiving final grant applications is Wednesday, October 10, 2007 by 5:00 p.m. Draft grant applications and final grant applications must be mailed (regular, express, or certified) or hand-delivered to: Coastal Coordination Council, CMP Grants Program, c/o Texas General Land Office, Stephen F. Austin Building, Room 335, 1700 North Congress Avenue, Austin, Texas 78701-1495. Facsimiles, electronic mail transmissions, and applications postmarked on or after the due date will not be accepted.

TRD-200701187

Larry L. Laine
Chief Clerk/Deputy Land Commissioner, General Land Office
Coastal Coordination Council
Filed: March 27, 2007



Comptroller of Public Accounts

Certification of the Average Taxable Price of Gas and Oil

The Comptroller of Public Accounts, administering agency for the collection of the Crude Oil Production Tax, has determined that the average taxable price of crude oil for reporting period February 2007, as required by Tax Code, §202.058, is \$53.51 per barrel for the three-month period beginning on November 1, 2006, and ending January 31, 2007. Therefore, pursuant to Tax Code, §202.058, crude oil produced during the month of February 2007, from a qualified Low-Producing Oil Lease, is not eligible for exemption from the crude oil production tax imposed by Tax Code, Chapter 202.

The Comptroller of Public Accounts, administering agency for the collection of the Natural Gas Production Tax, has determined that the average taxable price of gas for reporting period February 2007, as required by Tax Code, §201.059, is \$6.17 per mcf for the three-month period beginning on November 1, 2006, and ending January 31, 2007. Therefore, pursuant to Tax Code, §201.059, gas produced during the month of February 2007, from a qualified Low-Producing Well, is not eligible for exemption from the natural gas production tax imposed by Tax Code, Chapter 201.

Inquiries should be directed to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

TRD-200701204
Martin Cherry
General Counsel
Comptroller of Public Accounts
Filed: March 28, 2007

Notice of Award

The Comptroller of Public Accounts announces this notice of award of a contract for an organizational change management strategist and related services. The contract was awarded to Deloitte Consulting LLP, 400 West 15th Street, Suite 1700, Austin, Texas 78701.

The notice of request for proposals (RFP #177e) was published in the February 16, 2007 issue of the *Texas Register* (32 TexReg 652). The total amount of the contract is not to exceed \$330,000.00. The term of the contract is March 22, 2007 through March 22, 2008.

TRD-200701161
Pamela Smith
Deputy General Counsel for Contracts
Comptroller of Public Accounts
Filed: March 23, 2007

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, and 303.009, Texas Finance Code.

The weekly ceiling as prescribed §303.003 and §303.009 for the period of 04/02/07 - 04/08/07 is 18% for Consumer¹/Agricultural/Commercial²/credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 04/02/07 - 04/08/07 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005³ for the period of 04/01/07 - 04/30/07 is 18% for Consumer/Agricultural/Commercial/credit through \$250,000.

The monthly ceiling as prescribed by §303.005 for the period of 04/01/07 - 04/30/07 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

²Credit for business, commercial, investment or other similar purpose.

³For variable rate commercial transactions only.

TRD-200701179
Leslie L. Pettijohn
Commissioner
Office of Consumer Credit Commissioner
Filed: March 27, 2007

Texas Education Agency

Request for Applications Concerning the Texas Accelerated Science Achievement Program (Texas ASAP), Cycle 2, 2007-2009

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) #701-07-111 for the Texas Accelerated Science Achievement Program (Texas ASAP), Cycle 2, from school districts and open-enrollment charter schools that meet the following eligibility criteria: (1) a local educational agency (LEA) must include one or more high school campuses identified as under-performing, at which 60 percent or fewer 10th grade students or 75 percent or fewer 11th grade students met the state standard on the science portion of the Texas Assessment of Knowledge and Skills (TAKS) during the spring 2006 administration; and (2) the LEA has entered into a partnership or commits to entering into a partnership with the science department of an institution of higher education (IHE).

Each participating high school campus must also meet the preceding criteria to be eligible to be served under this grant program. A shared services arrangement (SSA) of two or more eligible public school districts or open-enrollment charter schools is also eligible to apply. Public school districts, open-enrollment charter schools, and education service centers will be eligible to serve as fiscal agents of an SSA. Each member district of an SSA must meet the eligibility criteria for both the LEA and for each campus identified for participation.

Description. This program will fund grants designed to provide after-school and summer student intervention programs in accord with the Texas Education Code (TEC), §29.090, After-School and Summer Intensive Science Instruction Programs. The intent of the Texas ASAP, Cycle 2, is to provide direct and indirect (support) services to students in Grades 9-12 using intervention programs that target students attending high schools with low student performance on the science TAKS tests. Texas ASAP is an intensive intervention grant program focused on improving student performance on the 10th and 11th grade science TAKS tests; improving student performance for students at risk of not graduating within four years after entering 9th grade as a result of not passing the required science portions of the TAKS tests or not successfully completing a science course; and improving performance for student groups, such as female students and students with limited English proficiency, with persistent performance gaps in science and on statewide assessments.

Prior to providing a program, in accordance with the TEC, §29.089, and the General Appropriations Act, Senate Bill 1, Article III, Rider 43, 79th Texas Legislature, 2005, each school district receiving a grant must (1) document its locally-adopted board of trustees policy for (A) determining student eligibility for participating in the program that prescribes the grade level or course in which a student must be enrolled to be eligible and provides for considering teacher recommendations in

determining eligibility; (B) ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program; (C) ensuring that eligible students are encouraged to attend the program; (D) ensuring that the program is offered at one or more locations that are easily accessible to eligible students in the district; and (E) measuring student progress; and (2) demonstrate a need for additional intervention as evidenced by student performance in science resulting in at least one high school being identified as under-performing. For the purposes of the Texas ASAP, Cycle 2, an under-performing campus is one at which 60 percent or fewer 10th grade students or 75 percent or fewer 11th grade students met the state standard on the science portion of the TAKS during the spring 2006 administration.

Dates of Project. The Texas ASAP, Cycle 2, will be implemented during the 2007-2008 and 2008-2009 school years. Applicants should plan for a starting date of no earlier than August 15, 2007, and an ending date of no later than February 28, 2009.

Project Amount. Funding will be provided for approximately 80 projects. Each project will receive a maximum of \$50,000 for the project period.

Selection Criteria. The applications will be scored based on campus and student group performance on the spring 2006 administration of the science portion of the TAKS. It will be possible for an application that includes multiple campuses to be awarded funding for only some of the campuses included. Funding will be awarded starting with the highest scoring campuses and continuing down the ranked list until funds are exhausted. In the event of tying scores near the end of available funds, applications will be evaluated based on the description of the program narrative, campus management plan, and the IHE partnership. Following the evaluation of these descriptions, applications with tying scores will either be recommended for funding or not recommended for funding, based on the reviewers' assessment of the capacity of the campus to successfully carry out the grant activities. The TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA and that are most advantageous to the project.

The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. A complete copy of RFA #701-07-111 may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701; by calling (512) 463-9304; by faxing (512) 463-9811; or by e-mailing dcc@tea.state.tx.us. Please refer to the RFA number and title in your request. Provide your name, complete mailing address, and phone number including area code. The announcement letter and complete RFA will also be posted on the TEA website at <http://burleson.tea.state.tx.us/GrantOpportunities/forms> for viewing and downloading.

Further Information. For clarifying information about the RFA, contact Amy Werst, Division of Discretionary Grants, Texas Education Agency, (512) 936-7238. In order to assure that no prospective applicant may obtain a competitive advantage because of acquisition of information unknown to other prospective applicants, any information that is different from or in addition to information provided in the RFA will be provided only in response to written inquiries. Copies of all such inquiries and the written answers thereto will be posted on the TEA website in the format of Frequently Asked Questions (FAQs) at <http://burleson.tea.state.tx.us/GrantOpportunities/forms>.

Deadline for Receipt of Applications. Applications must be received in the Document Control Center of the TEA by 5:00 p.m. (Central Time), Tuesday, June 5, 2007, to be considered for funding.

TRD-200701196

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Filed: March 28, 2007

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (the Code), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 7, 2007**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 7, 2007**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: Akzo Nobel Polymer Chemicals LLC; DOCKET NUMBER: 2006-2232-AIR-E; IDENTIFIER: RN102177391; LOCATION: Deer Park, Harris County, Texas; TYPE OF FACILITY: chemical manufacturing plant; RULE VIOLATED: 30 Texas Administrative Code (TAC) §116.115(b), Air Permit Number 8149, General Condition Number 8, and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$10,000; Supplemental Environmental Project (SEP) offset amount of \$5,000 applied to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program; ENFORCEMENT COORDINATOR: Roshondra Lowe, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: Alia Enterprises, Inc. dba Shaver 66; DOCKET NUMBER: 2006-2014-PST-E; IDENTIFIER: RN102432697; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to monitor underground storage tanks (USTs) for releases; PENALTY:

\$2,300; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: Approach Operating LLC; DOCKET NUMBER: 2007-0090-AIR-E; IDENTIFIER: RN104256102; LOCATION: Ozona, Crockett County, Texas; TYPE OF FACILITY: natural gas compression station; RULE VIOLATED: 30 TAC §122.146(1), Federal Operating Permit (FOP) Number O-02797, Special Terms and Conditions (b)(2), and THSC, §382.085(b), by failing to certify compliance with the terms and conditions of FOP Number O-02797; PENALTY: \$2,250; ENFORCEMENT COORDINATOR: Jessica Rhodes, (512) 239-2879; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7013, (915) 655-9479.

(4) COMPANY: City of Byers; DOCKET NUMBER: 2007-0105-PWS-E; IDENTIFIER: RN101236404; LOCATION: Byers, Clay County, Texas; TYPE OF FACILITY: public water system; RULE VIOLATED: 30 TAC §290.109(c)(2)(A)(ii) and THSC, §341.033(d), by failing to collect the required routine monthly bacteriological samples; 30 TAC §290.109(f)(3), by exceeding the maximum contaminant level (MCL); and 30 TAC §290.122(b)(2)(A), by failing to post a public notice for exceeding the MCL; PENALTY: \$1,130; ENFORCEMENT COORDINATOR: Cheryl Thompson, (817) 588-5800; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(5) COMPANY: Hyon Walk dba Chantz Cleaners; DOCKET NUMBER: 2006-1464-DCL-E; IDENTIFIER: RN105010417; LOCATION: Killeen, Bell County, Texas; TYPE OF FACILITY: dry cleaning drop station; RULE VIOLATED: 30 TAC §337.10(a) and THSC, §374.102, by failing to complete and submit the required registration form; PENALTY: \$1,185; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(6) COMPANY: East Business, Inc. dba Shop N Go; DOCKET NUMBER: 2006-2096-PST-E; IDENTIFIER: RN102238243; LOCATION: Splendor, Montgomery County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §115.246(1), (3), (5), and (7)(A) and THSC, §382.085(b), by failing to maintain records on site; 30 TAC §115.244(1) and (3) and THSC, §382.085(b), by failing to conduct daily and monthly inspections of the Stage II vapor recovery system (VRS); 30 TAC §115.248(1) and THSC, §382.085(b), by failing to ensure that at least one station representative received training in the operation and maintenance of the Stage II VRS and that each employee received in-house Stage II vapor recovery training; and 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of the Stage II equipment; PENALTY: \$5,775; ENFORCEMENT COORDINATOR: Judy Kluge, (817) 588-5800; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(7) COMPANY: Eco Resources, Inc.; DOCKET NUMBER: 2006-2029-PWS-E; IDENTIFIER: RN101194470; LOCATION: Smith County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(d)(2)(A), (f)(2), (f)(3)(B)(iii), and (q)(1), and §290.110(b)(4), by failing to maintain the disinfectant residual concentration at a minimum of 0.2 milligrams per liter (mg/L) of free chlorine, by failing to maintain the disinfectant residual monitoring records for the distribution system and making them available, and by failing to issue a boil water notification to the customers; PENALTY: \$561; ENFORCEMENT COORDINATOR: Rebecca Clausewitz, (210) 490-3096; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(8) COMPANY: E. I. du Pont de Nemours and Company; DOCKET NUMBER: 2006-2093-AIR-E; IDENTIFIER: RN100225085; LOCATION: La Porte, Harris County, Texas; TYPE OF FACILITY: chemical manufacturing; RULE VIOLATED: 30 TAC §116.115(c), Air Permit Number 1834, Special Condition Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$8,800; ENFORCEMENT COORDINATOR: Rebecca Johnson, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(9) COMPANY: Hilco United Services Inc.; DOCKET NUMBER: 2006-1985-PWS-E; IDENTIFIER: RN101271401; LOCATION: Hill County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to have a sanitary control easement; 30 TAC §290.42(1), by failing to have a thorough and up-to-date plant operations manual; 30 TAC §290.43(c) and (c)(2), by failing to ensure the vertical and horizontal ground storage tanks and the pressure tank are designed in accordance with American Water Works Association standards; and 30 TAC §290.45(b)(1)(D)(ii), by failing to provide a total storage capacity of 200 gallons per connection; PENALTY: \$3,780; ENFORCEMENT COORDINATOR: Anita Keese, (956) 425-6010; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(10) COMPANY: Houston Country Club; DOCKET NUMBER: 2006-2219-PST-E; IDENTIFIER: RN102013802; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance; 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to monitor USTs for releases; and 30 TAC §334.8(c)(5)(A)(i) and (c)(5)(B)(ii), and the Code, §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate and by failing to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form; PENALTY: \$6,000; ENFORCEMENT COORDINATOR: Jason Godeaux, (512) 239-2541; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(11) COMPANY: Joe Perez dba J & R Body Shop; DOCKET NUMBER: 2006-2195-AIR-E; IDENTIFIER: RN104913926; LOCATION: Abilene, Taylor County, Texas; TYPE OF FACILITY: automotive collision repair; RULE VIOLATED: 30 TAC §106.436(5) and (7), and §116.110(a)(4), and THSC, §382.085(b), by failing to obtain a permit or satisfy the conditions for a permit by rule; PENALTY: \$1,050; ENFORCEMENT COORDINATOR: John Muennink, (361) 825-3100; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(12) COMPANY: City of Killeen; DOCKET NUMBER: 2004-1836-PWS-E; IDENTIFIER: Public Water Supply Identification Number 014006 and RN101391308; LOCATION: Killeen, Bell County, Texas; TYPE OF FACILITY: public water supply system; RULE VIOLATED: 30 TAC §290.44(d)(1), by failing to properly install air release devices in the distribution system; 30 TAC §290.44(h)(1)(A) and §290.47(i), by failing to install backflow prevention assemblies or an air gap at all residences or establishments; 30 TAC §290.110(b)(4), by failing to maintain the residual disinfectant concentration in the far reaches of the distribution system; and 30 TAC §290.42(f)(1)(E)(ii), by failing to provide chemical containment equipment for all liquid chemical storage tanks; PENALTY: \$1,473; Supplemental Environmental Project (SEP) offset amount of \$1,473 applied to a one-day city-wide waste collection and recycling event and a waste tire dump clean up event; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(13) COMPANY: John Ali Hemati dba Mimbela Fuel & Oil; DOCKET NUMBER: 2006-2088-PST-E; IDENTIFIER: RN103937389; LOCATION: El Paso, El Paso County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance; PENALTY: \$1,500; ENFORCEMENT COORDINATOR: Patricia Chawla, (512) 239-0739; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1206, (915) 834-4949.

(14) COMPANY: Occidental Permian Ltd.; DOCKET NUMBER: 2007-0044-AIR-E; IDENTIFIER: RN100212786; LOCATION: Hockley County, Texas; TYPE OF FACILITY: gas processing plant; RULE VIOLATED: 30 TAC §116.115(c), New Source Review Permit Number 18406, Special Condition 1, General Operating Permit Number O-00559, Special Condition b.4.A., and THSC, §382.085(b), by failing to maintain an emission rate below the allowable emission limits; PENALTY: \$25,300; ENFORCEMENT COORDINATOR: Jason Kemp, (512) 239-5610; REGIONAL OFFICE: 4630 50th Street, Suite 600, Lubbock, Texas 79414-3520, (806) 796-7092.

(15) COMPANY: Oxy USA WTP, L.P.; DOCKET NUMBER: 2006-2008-AIR-E; IDENTIFIER: RN101222602; LOCATION: Kent County, Texas; TYPE OF FACILITY: natural gas processing plant; RULE VIOLATED: 30 TAC §116.115(c), Permit Number 20660, Special Condition Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; 30 TAC §106.6(b) and §122.143(4), Permit Number 00550, Special Condition Number 9, and THSC, §382.085(b), by failing to limit the ethylene glycol circulation rate; 30 TAC §116.115(c) and §122.143(4), Permit Number 20660, Special Condition Number 1, Permit Number 00550, Special Condition Number 8, and THSC, §382.085(b), by failing to prevent carbon monoxide, nitrogen oxide, sulfur dioxide, and volatile organic compound (VOC) emissions from five compressor drives; 30 TAC §§101.20(1), 116.115(c), and 122.143(4), 40 Code of Federal Regulations (CFR) §60.18(f)(2), Permit Number 20660, Special Condition Number 2, Permit Number 00550, Special Condition Number 8, and THSC, §382.085(b), by failing to operate the North flare with a flame present at all times and to provide flame monitoring; and 30 TAC §§101.20(1), 116.115(c), and 122.143(4), 40 CFR §60.486(i)(3) and (j), and §60.487(c)(4), Permit Number 20660, Special Condition Number 3, and Permit Number 00550, Special Condition Number 8; by failing to meet the reporting and recordkeeping requirements for gas analysis; PENALTY: \$152,350; ENFORCEMENT COORDINATOR: John Muennink, (361) 825-3100; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(16) COMPANY: Peaster Independent School District Public Facility Corporation; DOCKET NUMBER: 2005-0797-MWD-E; IDENTIFIER: RN102078045; LOCATION: Parker County, Texas; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit Number 13589001, Final Effluent Limitations and Monitoring Requirements Number 1, Monitoring and Reporting Requirements Number 1, and the Code, §26.121(a), by failing to comply with effluent discharge limits and by failing to submit a monthly discharge monitoring report; PENALTY: \$9,870; Supplemental Environmental Project (SEP) offset amount of \$7,896 applied to Texas Association of Resource Conservation & Development Areas, Inc. wastewater treatment assistance; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(17) COMPANY: Tex Mix Partners, LTD.; DOCKET NUMBER: 2007-0228-WQ-E; IDENTIFIER: RN103972428; LOCATION: Liberty Hill, Williamson County, Texas; TYPE OF FACILITY: concrete

batch plant; RULE VIOLATED: 30 TAC §281.25(a)(4) and 40 CFR §122.21(a)(1), by failing to obtain authorization to discharge storm water associated with industrial activity; PENALTY: \$740; ENFORCEMENT COORDINATOR: Craig Fleming, (512) 239-5806; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(18) COMPANY: John Goodson dba The Oasis; DOCKET NUMBER: 2006-2235-PST-E; IDENTIFIER: RN103019998; LOCATION: Aransas Pass, San Patricio County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.72(2), by failing to report a suspected release; and 30 TAC §334.74(1), by failing to investigate a suspected release of regulated substances; PENALTY: \$7,650; ENFORCEMENT COORDINATOR: Rajesh Acharya, (512) 239-0577; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(19) COMPANY: Trans Future Incorporated dba Dry Clean Super Center of Atascocita; DOCKET NUMBER: 2006-1613-DCL-E; IDENTIFIER: RN104102538; LOCATION: Humble, Harris County, Texas; TYPE OF FACILITY: dry cleaning drop station; RULE VIOLATED: 30 TAC §337.11(e) and THSC, §374.102, by failing to renew the registration by completing and submitting the required registration form; PENALTY: \$1,185; ENFORCEMENT COORDINATOR: Suzanne Walrath, (512) 239-2134; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(20) COMPANY: West Harris County Municipal Utility District No. 17; DOCKET NUMBER: 2007-0007-MWD-E; IDENTIFIER: RN102956422; LOCATION: Harris County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 0012247001, Effluent Limitations and Monitoring Requirements for Outfall 001, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; PENALTY: \$4,050; ENFORCEMENT COORDINATOR: Craig Fleming, (512) 239-5806; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

TRD-200701175

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 27, 2007



Notice of District Petition

Notices issued March 22, 2007.

Texas Commission on Environmental Quality (TCEQ) Internal Control No. 12132006-D08; Land Funds Two & Three Joint Venture (the "Petitioner") filed a petition for creation of Galveston County Municipal Utility District No. 35 (the "District") with the TCEQ. The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioner is the owner of a majority in value of the land to be included in the proposed District; (2) there are no lien holders on the property to be included in the proposed District; (3) the proposed District will contain approximately 373.9 acres located in Galveston County, Texas; and (4) the proposed District is within the corporate boundaries of the City of League City, Texas. By Resolution No. 2006-32, effective July 11, 2006, the City of League City, Texas, gave its consent to the creation of the proposed District. According to the petition, the Petitioner has conducted a preliminary investigation to determine the cost of the project and from the

information available at the time, the cost of the project is estimated to be approximately \$19,400,000.

TCEQ Internal Control No. 02062007-D04; Herrin Ranch Development II Inc., the GBI Group LLC, and Stafford Interests Ltd. (the "Petitioners") filed a petition for creation of Fort Bend County Municipal Utility District No. 149 (the "District") with the TCEQ. The petition was filed pursuant to Article XVI, Section 59 of the Constitution of the State of Texas; Chapters 49 and 54 of the Texas Water Code; 30 Texas Administrative Code Chapter 293; and the procedural rules of the TCEQ. The petition states the following: (1) the Petitioners are the owners of a majority in value of the land to be included in the proposed District; (2) there are two lien holders, Texas State Bank and Metrobank NA, on the property to be included in the proposed District, and the Petitioners have provided the TCEQ with evidence of lien holders' consent to the creation of the proposed District; (3) the proposed District will contain approximately 658.21 acres located in Fort Bend County, Texas; and (4) the proposed District is within the extraterritorial jurisdiction of the City of Missouri City, Texas. By Resolution No. R-03-15, effective September 15, 2003, the City of Missouri City, Texas, gave its consent to the creation of the proposed District. According to the petition, the Petitioners have conducted a preliminary investigation to determine the cost of the project and from the information available at the time, the cost of the project is estimated to be approximately \$29,500,000.

INFORMATION SECTION

The TCEQ may grant a contested case hearing on this petition if a written hearing request is filed within 30 days after the newspaper publication of this notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing;" (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice.

If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en Español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-200701178

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: March 27, 2007



Notice of Meeting on May 17, 2007, in Tenaha, Shelby County, Texas Concerning the Shelby Wood Specialty, Inc. Facility

The purpose of the meeting is to obtain public input and information concerning proposal of the facility to the state registry of Superfund sites, the identification of potentially responsible parties, and the proposal of using non-residential standards for setting cleanup levels at the site.

The Texas Commission on Environmental Quality (TCEQ or commission) is required under the Texas Solid Waste Disposal Act, Health and Safety Code, Chapter 361, as amended (the Act), to annually publish a state registry that identifies facilities that may constitute an imminent and substantial endangerment to public health and safety or the environment due to a release or threatened release of hazardous substances into the environment. The most recent registry listing of these facilities was published in the September 29, 2006, issue of the *Texas Register* (31 TexReg 8265).

Pursuant to the Act, §361.184(a), the commission must publish a notice of intent to list a facility on the state registry of state Superfund sites in the *Texas Register* and in a newspaper of general circulation in the county in which the facility is located. With this publication, the commission hereby gives notice of a facility that the executive director has determined eligible for listing and which the executive director proposes to list on the state registry. By this publication, the commission also gives notice pursuant to the Act, §361.1855, that it proposes a land use other than residential as appropriate for the facility identified below. The commission proposes a commercial/industrial land use designation. Determination of appropriate land use may impact the remedial investigation and remedial action for the site. The TCEQ is proposing a land use designation of commercial/industrial based on the existing land use of the property, as is prescribed in the Texas Risk Reduction Program rule at 30 Texas Administrative Code (TAC) §350.53.

This publication also specifies the general nature of the potential endangerment to public health and safety or the environment as determined by information currently available to the executive director. This notice of intent to list this facility was also published on April 6, 2007, in *The Center Light & Champion* and on April 12, 2007 in the *Timpson & Tenaha News*.

The facility proposed for listing is the Shelby Wood Specialty, Inc. site, located at 3295 US Highway 84 East, Tenaha, Shelby County, Texas. The geographic coordinates of the site are Latitude 31 degrees 57 minutes 23 seconds North and Longitude 94 degrees 11 minutes 31 seconds West. The description of the site is based on information available at the time the site was evaluated with the Hazard Ranking System (HRS). The HRS is the principal screening guide used by the commission to evaluate potential, relative risk to public health and the environment from releases or threatened releases of hazardous substances. The site description may change as additional information is gathered on the sources and extent of contamination.

The facility known as the Shelby Wood Specialty, Inc. site covers approximately 27.4 acres and is located three miles east of Tenaha. The site is bounded by US Highway 84 on the north, a residence on the west, wood and pastureland on the south, and pastureland on the east. The records indicate that the site operated as a wood treating facility from approximately the mid-1970s to the mid-1980s.

The facility treated wood with copper chromium arsenate (CCA). The facility used 4 to 5 acres of the 27.4-acre property. Rails at the facility led to a pressure vessel in which CCA was used to treat wood. The pressure vessel and chemical tanks have been removed from the site, and the rails have been covered with concrete. A previous investigation in 1989 suggested elevated levels of chromium, copper, and arsenic. On August 23, 2005, TCEQ conducted soil sampling from 1 to 8-inch

depths at the site. The sampling results indicated releases of arsenic, cadmium, chromium, copper, magnesium, manganese, sodium, zinc, and other chemicals at levels greater than three times those that occur naturally in the environment. Hazardous substances have also been detected in sediment samples taken from wetlands located 0.8 miles downstream from the site.

A public meeting will be held on May 17, 2007, at 7:00 p.m., at the Tenaha City Hall, located at 122 North Center, Tenaha, Texas. The purpose of this meeting is to obtain additional information regarding the site relative to its eligibility for listing on the state registry, identify any additional potentially responsible parties, and obtain public input and information regarding the appropriate use of land on which the facility that is the subject of this notice is located. The public meeting is not a contested case hearing under the Texas Administrative Procedure Act (Texas Government Code, Chapter 2001).

All persons desiring to make comments may do so prior to or at the public meeting. All comments submitted prior to the public meeting must be received by 5:00 p.m. on May 16, 2007 **and should be sent in writing** to Sugam Shrestha, Project Manager, TCEQ, Remediation Division, MC 136, P.O. Box 13087, Austin, Texas 78711-3087 or by facsimile at (512) 239-2303. The public comment period for this action will end at the close of the public meeting on May 17, 2007.

A portion of the record for this site, including documents pertinent to the executive director's determination of eligibility, is available for review at the Fannie Brown Booth Memorial Library, 619 Tenaha Street, Center, Texas, telephone number (936) 598-5522, during regular business hours. Copies of the complete public record file may be obtained during regular business hours or at the commission's Records Management Center, Building E, First Floor, Records Customer Service, MC 199, Austin, Texas 78753, telephone number (800) 633-9363 or (512) 239-2920. Photocopying of file information is subject to payment of a fee. Parking is available for persons with disabilities on the east side of Building D, convenient to access ramps that are between Buildings D and E.

For further information about this site or the public meeting, please call Crystal Taylor, TCEQ Community Relations, at (800) 633-9363. Information is also available regarding the state Superfund program at www.tceq.state.tx.us/remediation/superfund/index.html.

TRD-200701176

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 27, 2007



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075 this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which

in this case is **May 7, 2007**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 7, 2007**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Al-Azim Corporation dba Honey Stop 7; DOCKET NUMBER: 2004-1035-PST-E; TCEQ ID NUMBER: RN102450426; LOCATION: 14915 Crosby Lynchburg Road, Crosby, Harris County, Texas; TYPE OF FACILITY: retail fuel station; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tank (USTs); 30 TAC §334.7(d)(3), by failing to provide to the agency an amended registration for any change or additional information regarding the UST's status; and 30 TAC §334.22(a) and Texas Water Code (TWC), §5.702, by failing to pay outstanding fees for UST's Financial Administration (FA) Account No. 0050170U, for the Fiscal Years 1995 - 2004; PENALTY: \$5,250; STAFF ATTORNEY: Becky Combs, Litigation Division, MC 175, (512) 239-6939; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: Denville Business, Inc. dba Denville \$1.25 Cleaners aka Denville Cleaners; DOCKET NUMBER: 2006-1757-DCL-E; TCEQ ID NUMBER: RN104707245; LOCATION: 12335 South Main Street, Houston, Harris County, Texas; TYPE OF FACILITY: dry cleaning drop station; RULES VIOLATED: 30 TAC §337.10(a) and Texas Health and Safety Code (THSC), §374.102, by failing to complete and submit the required registration form to TCEQ for a dry cleaning and/or drop station facility; PENALTY: \$1,185; STAFF ATTORNEY: Deanna Sigman, Litigation Division, MC 175, (512) 239-0619; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: Environmental Recycling Technologies LLC; DOCKET NUMBER: 2006-1019-AIR-E; TCEQ ID NUMBER: RN104927629; LOCATION: 9612 O'Brien Road, Richmond, Fort Bend County, Texas; TYPE OF FACILITY: rock crusher plant; RULES VIOLATED: 30 TAC §116.110(a)(2)(A), and THSC, §382.085(b) and §382.0518(a), by failing to obtain authorization prior to operating a rock crusher; PENALTY: \$20,000; STAFF ATTORNEY: Kathleen Decker, Litigation Division, MC 175, (512) 239-6500; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(4) COMPANY: Hari Enterprises, L.L.C.; DOCKET NUMBER: 2006-0175-PWS-E; TCEQ ID NUMBER: RN102280518; LOCATION: 21411 Highway 59, El Campo, Wharton County, Texas;

TYPE OF FACILITY: business with retail sales of petroleum products with a public water supply; RULES VIOLATED: 30 TAC §290.109(c)(2)(A)(i), and §290.122(c)(2)(B), and THSC, §341.033(d), by failing to conduct routine monthly bacteriological monitoring and by failing to provide public notification of the failure to conduct routine bacteriological monitoring; PENALTY: \$2,685; STAFF ATTORNEY: Mark Curnutt, Litigation Division, MC 175, (512) 239-0624; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(5) COMPANY: Hilda Quiros dba Hildas Causeway Cleaners; DOCKET NUMBER: 2006-1293-DCL-E; TCEQ ID NUMBER: RN104974654; LOCATION: 600 South Garcia Street, Suite B, Port Isabel, Cameron County, Texas; TYPE OF FACILITY: dry cleaning drop station; RULES VIOLATED: 30 TAC §337.10(a) and THSC, §374.102, by failing to complete and submit the required registration form to the TCEQ for a dry cleaning and/or drop station facility; PENALTY: \$1,185; STAFF ATTORNEY: Kathleen Decker, Litigation Division, MC 175, (512) 239-6500; REGIONAL OFFICE: Harlingen Regional Office, 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(6) COMPANY: Hung Le dba Elite Cleaners; DOCKET NUMBER: 2006-1444-DCL-E; TCEQ ID NUMBER: RN102168689; LOCATION: 2540 Marsh Lane, Suite 108, Carrollton, Dallas County, Texas; TYPE OF FACILITY: dry cleaning drop station; RULES VIOLATED: 30 TAC §337.11(e) and THSC, §374.102, by failing to complete and submit the required registration form to TCEQ for a dry cleaning and/or drop station facility; PENALTY: \$1,185; STAFF ATTORNEY: Deanna Sigman, Litigation Division, MC 175, (512) 239-0619; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(7) COMPANY: John Tran dba Quality Cleaners and dba Deluxe Drycleaning; DOCKET NUMBER: 2006-1428-DCL-E; TCEQ ID NUMBERS: RN103953683, RN104137443, RN104137518, and RN104137435; LOCATION: 2844 7th Street, Port Arthur, Jefferson County; 535 7th Street, Port Arthur, Jefferson County; 1920 9th Avenue, Port Arthur, Jefferson County; and 3889 Main Avenue, Groves, Jefferson County, Texas; TYPE OF FACILITY: dry cleaning/drop station facilities; RULES VIOLATED: 30 TAC §337.11(e) and THSC, §374.102, by failing to complete and submit the required registration form to the TCEQ for dry cleaning and drop station facilities; and 30 TAC §337.14(c), and TWC, §5.702, by failing to pay Dry Cleaner registration fees for TCEQ Financial Administration Account No. 24000709 and associated late fees for fiscal year 2006; PENALTY: \$900; STAFF ATTORNEY: Shawn Slack, Litigation Division, MC 175, (512) 239-0063; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(8) COMPANY: Metro Continental, Inc. dba One Hour Cleaners and dba Tip Top Cleaners; DOCKET NUMBER: 2006-1319-DCL-E; TCEQ ID NUMBERS: RN104109749, RN104103015, RN100546399, and RN104103072; LOCATION: 305 East Highway 90 in Dayton, Liberty County; 9539 Highway 146, Mont Belvieu, Chambers County; 8180 9th Avenue, Port Arthur, Jefferson County; and 510 West Florida Street, Beaumont, Jefferson County, Texas; TYPE OF FACILITY: one dry cleaning facility and three dry cleaning drop stations; RULES VIOLATED: 30 TAC §337.10(a) and THSC, §374.102, by failing to complete and submit the required registration forms to the TCEQ for the facilities in Port Arthur, Mont Belvieu and Dayton; 30 TAC §337.11(e) and THSC, §374.102, by failing to renew the Beaumont Facility's registration by completing and submitting the required registration form to the TCEQ for dry cleaning and/or drop station facility; and 30 TAC §337.14(c) and TWC, §5.702, by failing

to pay outstanding dry cleaner fees for TCEQ Financial Account No. 24002255 for fiscal year 2005; PENALTY: \$4,740; STAFF ATTORNEY: Mary Hammer, Litigation Division, MC 175, (512) 239-2496; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(9) COMPANY: Oil Patch Brazos Valley Inc; DOCKET NUMBER: 2006-1041-PWS-E; TCEQ ID NUMBER: RN100527001; LOCATION: 22614 North Highway 288B, Angleton, Brazoria County, Texas; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.109(c)(2)(A)(i) and THSC, §341.033(d), by failing to collect routine bacteriological samples at a frequency based on the population served by the system; and 30 TAC §290.122(c)(2)(B), by failing to notify persons served by the system of the failure to collect bacteriological samples by publishing the notice in a daily newspaper of general circulation in the area served by the system; PENALTY: \$3,750; STAFF ATTORNEY: Mary Hammer, Litigation Division, MC 175, (512) 239-2496; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(10) COMPANY: Phuong Tam Enterprises, Inc. dba King Cleaners; DOCKET NUMBER: 2006-1354-DCL-E; TCEQ ID NUMBER: RN104065925; LOCATION: 16805 El Camino Real, Houston, Harris County, Texas; TYPE OF FACILITY: dry cleaning facility; RULES VIOLATED: 30 TAC §337.10(a) and THSC, §374.102, by failing to complete and submit the required registration form to the TCEQ for a dry cleaning facility; PENALTY: \$1,209; STAFF ATTORNEY: Alfred Oloko, Litigation Division, MC R-12, (713) 422-8918; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(11) COMPANY: Pia-Linda Vantho dba VT Cleaners; DOCKET NUMBER: 2006-1139-DCL-E; TCEQ ID NUMBER: RN104959853; LOCATION: 8419 Stella Link Road, Houston, Harris County, Texas; TYPE OF FACILITY: dry cleaning drop station; RULES VIOLATED: 30 TAC §337.10(a) and THSC, §374.102, by failing to submit the required registration form to the TCEQ for the Facility; PENALTY: \$1,185; STAFF ATTORNEY: Mark Curnutt, Litigation Division, MC 175, (512) 239-0624; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(12) COMPANY: Qaswa Enterprise, LLC dba Dynasty Cleaners; DOCKET NUMBER: 2006-0914-DCL-E; TCEQ ID NUMBER: RN104987664; LOCATION: 2733 West Park Row, Arlington, Tarrant County, Texas; TYPE OF FACILITY: dry cleaner drop station; RULES VIOLATED: 30 TAC §337.10(a) and THSC, §374.102, by failing to complete and submit the required registration form to the TCEQ for the Facility; PENALTY: \$1,185; STAFF ATTORNEY: Mary Hammer, Litigation Division, MC 175, (512) 239-2496; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(13) COMPANY: Sohail Afridi dba Lumberton Food Mart; DOCKET NUMBER: 2005-1449-PST-E; TCEQ ID NUMBER: RN102353554; LOCATION: 2346 Highway 69 South in Lumberton, Hardin County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.10(b), by failing to maintain all UST records at the Station and make them available for inspection to commission personnel upon request; 30 TAC §115.245(2), and THSC, §382.085(b), by failing to verify proper operation of the Stage II equipment at least once every twelve months; 30 TAC §334.50(b)(1)(A), and TWC, §26.3475(c)(1), by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring); 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control pro-

cedures for all USTs involved in the retail sale of petroleum substances as a motor fuel; and 30 TAC §334.22(a) and TWC, §5.702, by failing to pay UST fees for TCEQ Petroleum Storage Tank Account No. 0060267U and associated late fees for fiscal year 2005; PENALTY: \$8,925; STAFF ATTORNEY: Mark Cumutt, Litigation Division, MC 175, (512) 239-0624; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(14) COMPANY: Tony Nguyen dba Classic Cleaners; DOCKET NUMBER: 2006-1103-DCL-E; TCEQ ID NUMBER: RN102294329; LOCATION: 3319 Cavalcade Street, Houston, Harris County, Texas; TYPE OF FACILITY: dry cleaning drop station; RULES VIOLATED: 30 TAC §337.11(e) and THSC, §374.102, by failing to complete and submit the required registration form to the TCEQ for a dry cleaning and/or drop station facility; PENALTY: \$1,185; STAFF ATTORNEY: Deanna Sigman, Litigation Division, MC 175, (512) 239-0619; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

TRD-200701181

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: March 27, 2007



Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **May 7, 2007**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on May 7, 2007**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Enbridge Pipelines East Texas L.P.; DOCKET NUMBER: 2006-0527-AIR-E; TCEQ ID NUMBER: RN100224912; LOCATION: 2.7 miles south of Lanely on Highway 489, Freestone

County, Texas; TYPE OF FACILITY: natural gas treating facility; RULES VIOLATED: 30 TAC §116.115(c); New Source Review (NSR) Air Permit No. 31352, Special Condition Nos. 1 and 8, and Texas Health and Safety Code (THSC), §382.085(b), by failing to comply with permitted maximum allowable Emission Rates of 42.01 pounds per hour for sulfur dioxide and by failing to meet its 96% sulfur recovery efficiency; and 30 TAC §116.115(c); NSR Air Permit No. 31352, Special Condition No. 1 and THSC, §382.085(b), by failing to comply with permitted Maximum Allowable Emission Rates of 42.01 pounds per hour for sulfur dioxide on 101 days between December 2, 2005 and April 4, 2006; PENALTY: \$10,275; STAFF ATTORNEY: Kathleen Decker, Litigation Division, MC 175, (512) 239-6500; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(2) COMPANY: Equistar Chemicals, LP; DOCKET NUMBER: 2006-1232-AIR-E; TCEQ ID NUMBER: RN100210319; LOCATION: 1515 Miller Cut Off Road, La Porte, Harris County, Texas; TYPE OF FACILITY: petrochemical manufacturing plant; RULES VIOLATED: 30 TAC §116.115(c); TCEQ Air Permit No. 4477, Special Condition No. 1; and THSC, §382.085(b), by failing to prevent unauthorized emissions from December 22, 2003 until April 1, 2004; 30 TAC §116.115(c); TCEQ Air Permit No. 18978, Special Condition No.1; and THSC, §382.085(b), by failing to prevent unauthorized emissions on October 25, 2005; 30 TAC §116.115(c); TCEQ Air Permit No. 18978, Special Condition No.1; and THSC, §382.085(b), by failing to prevent unauthorized emissions on December 24, 2005; 30 TAC §116.115(c); TCEQ Air Permit No. 4477, Special Condition No.1; and THSC, §382.085(b), by failing to prevent unauthorized emissions on March 12, 2006; and 30 TAC §101.201(a)(1)(B), (a)(2) and (b), and THSC, §382.085(b), by failing to properly notify the TCEQ of emissions events that occurred on December 22, 2003, October 25, 2005, and March 12, 2006; PENALTY: \$96,106; STAFF ATTORNEY: Kathleen Decker, Litigation Division, MC 175, (512) 239-6500; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(3) COMPANY: Harlow Stores, Inc. dba Harlows 121; DOCKET NUMBER: 2006-0128-PST-E; TCEQ ID NUMBER: RN104805270; LOCATION: 15449 North Highway 121, Anna, Collin County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all underground storage tanks (USTs) involved in the retail sale of petroleum substances used as a motor fuel; 30 TAC §334.8(c)(5)(B)(ii), by failing to timely renew a previously issued TCEQ delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date of the delivery certificate; 30 TAC §334.8(c)(5)(A)(i) and Texas Water Code (TWC), §26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs at the Station; and 30 TAC §115.244(1) and (3) and THSC, §382.085(b), by failing to conduct daily and monthly inspections for the Stage II vapor recovery system; PENALTY: \$9,375; STAFF ATTORNEY: Shawn Slack, Litigation Division, MC 175, (512) 239-0063; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Kuang Phou dba Ken's Minit Market 3; DOCKET NUMBER: 2005-1053-PST-E; TCEQ ID NUMBER: RN101497071; LOCATION: 2500 South Street, Nacogdoches, Nacogdoches County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number was permanently applied upon or affixed to either the top of the fill tube

or to a non-removable point in the immediate area of the fill tube according to the UST registration and self-certification form; and 30 TAC §334.8(c), by failing to conduct effective manual or automatic inventory control procedures for the UST system at the Facility; PENALTY: \$3,500; STAFF ATTORNEY: Becky Combs, Litigation Division, MC 175, (512) 239-6939; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(5) COMPANY: Red Dog Track, Inc.; DOCKET NUMBER: 2005-1884-AIR-E; TCEQ ID NUMBER: RN100224914; LOCATION: 3251 State Highway 108, Strawn, Palo Pinto County, Texas; TYPE OF FACILITY: rock crusher; RULES VIOLATED: 30 TAC §116.110(a)(1) and THSC, §382.0518(a) and §382.085(b), by failing to obtain a permit or satisfy the condition of a permit by rule (PBR) prior to operating a portable rock crusher; and 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to prevent a nuisance condition; PENALTY: \$32,500; STAFF ATTORNEY: Kathleen Decker, Litigation Division, MC 175, (512) 239-6500; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(6) COMPANY: Sahil Business, Inc. dba Stop N Save; DOCKET NUMBER: 2004-1423-PST-E; TCEQ ID NUMBER: RN101660173; LOCATION: 1504 Highway 21 West in Caldwell, Burselson County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to provide acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases from the operation of USTs; and 30 TAC §334.22(a) and TWC, §5.702, by failing to pay Underground Storage Tank fees and late fees for TCEQ Account No. 0058325U for Fiscal Year 2004; PENALTY: \$3,150; STAFF ATTORNEY: Deanna Sigman, Litigation Division, MC 175, (512) 239-0619; REGIONAL OFFICE: Waco Regional Office, 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

TRD-200701180
Mary R. Risner
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: March 27, 2007

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Notice of Water Rights Application

Notice issued March 26, 2007.

APPLICATION NO.14-5437A; STP Nuclear Operating Company (STPNOC), P.O. Box 289, Wadsworth, Texas 77483 and Lower Colorado River Authority (LCRA), 3700 Lake Austin Boulevard, Austin, Texas 78703 have applied for an amendment to Certificate of Adjudication No. 14-5437 to add authorization to divert from an existing upstream diversion point on the Colorado River, Colorado River Basin in Matagorda County. STPNOC and LCRA further request to revise various provisions in the Certificate to reflect the current ownership and current contract and to clarify existing special conditions in the Certificate. The application does not request any increase in the maximum rate of diversion or of the maximum yearly quantity of water to be diverted and consumptively used. The application was received on April 26, 2006. Additional information and fees were received on August 16, 2006, December 6, 2006 and January 30, 2007. The application was accepted for filing and declared administratively complete on February 9, 2007. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk,

at the address provided in the information section below, within 30 days of the date of newspaper publication of the notice.

INFORMATION SECTION

To view the complete issued notices, view the notices on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ Office of the Chief Clerk at the address provided below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200701177
LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: March 27, 2007

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Texas Ethics Commission

List of Late Filers

Listed below are the names of filers from the Texas Ethics Commission who did not file reports, or failed to pay penalty fines for late reports in reference to the listed filing deadline. If you have any questions, you may contact Robbie Miller at (512) 463-5800 or (800) 325-8506.

Deadline: 8-Day Pre-Election Report Due February 27, 2006

Alfredo Montano, Jr., 1101 W. Tyler Ave., Harlingen, Texas 78550

Deadline: 30-Day Pre-Election Report Due October 10, 2006

Elizabeth Tudor, 4154 Bellefontaine St., Houston, Texas 77025-1105

Deadline: 8-Day Pre-Election Report Due October 30, 2006

Jack F. Borden Sr., P.O. Box 191913, Dallas, Texas 75219

Ateja N. Dukes, Dawnna Dukes Campaign, 5224 Marymount Dr., Austin, Texas 78723-4625

William M. Eastland, Citizens for Honesty in Taxation, P.O. Box 13162, Arlington, Texas 76094-0162

Martha Failing, Harris County Democratic Lawyers' Association Inc., 1 Pinedale St., Houston, Texas 77006

Billy D. Grimes, P.O. Box 69226, Odessa, Texas 79769-0226

Gerald W. LaFleur, 5810 Maple St., Houston, Texas 77074

Sharon K. Martin, Daughters of Liberty Republican Women, 24322 Cornell Park Ln., Katy, Texas 77494-0272

Pearlie Mayfield, 2015 35th St., Lubbock, Texas 79412

Brenda K. Morott, Rockwall Action Team - PAC, P.O. Box 73, Fate, Texas 75132

Brian Overstreet, Waller County Progressive Voters League, 1314 Texas Ave., Suite 1200, Houston, Texas 77002

Bruce Priddy, 17194 Preston Rd., Suite 102, Dallas, Texas 75248-1227

Jonathan A. Rasco, 206 N. Whatley Rd., White Oak, Texas 75693-3602

Jim Sharp, P.O. Box 2611, Houston, Texas 77252-2611

Kevin Sheeran, Texas Towing & Storage Association PAC, 3741 Whitloop, Austin, Texas 78749

Brandon Stacker, 5603 16th Pl., Lubbock, Texas 79416

Pamela T. Thomas, Dallas County Council of Republican Women, 5349 Goodwin, Dallas, Texas 75206

Elizabeth Tudor, 4154 Bellefontaine St., Houston, Texas 77025-1105

John Waldowski, 3616 Bryce Ave., Apt. 1, Fort Worth, Texas 76107

Deadline: Monthly Report Due December 5, 2006

Jeffrey J. Benavidez, San Antonio Ironworkers PAC, 4318 Clark Ave., San Antonio, Texas 78223

Deadline: Monthly Report Due January 5, 2007

Thao Dao, Vietnamese American Voters Network Political Action Committee, 11210 Bellaire Blvd. #126A, Houston, Texas 77072

Robert V. Ruiz Jr., Houston Police Patrolmen's Union PAC, 1900 N. Loop West #540, Houston, Texas 77018

Frank R. Santos, Santos Alliances Political Action Committee, 1001 Congress Ave., Suite 100, Austin, Texas 78701

Deadline: Semiannual Report for Candidates and Officeholders Due January 16, 2007

David S. Barron, P.O. Box 2263, Bryan, Texas 77806-2263

Boyd W. Bauer, P.O. Box 1436, Beeville, Texas 78104-1436

Elaine G. Bishop, P.O. Box 2189, Missouri City, Texas 77459-9189

Bill C. Boyd, 2400 Hancock Dr., Austin, Texas 78756-2513

Tim Cole, P.O. Box 606, Saint Jo, Texas 76265-0606

James A. Cooper, P.O. Box 800052, Houston, Texas 77280-0052

Henry E. Gilbert, 302 Windridge, Whitehouse, Texas 75791

John R. Gorman, 3612 Parkside Dr., Pearland, Texas 77584

William E. Harrison, 2607 Kimberly Dawn Dr., Conroe, Texas 77304-5018

Patrick Edward Heaton, 304 E. 7th St., Austin, Texas 78701-3202

Michael R. Henderson, 2002 Twin Elms Dr., Apt. C-107, Arlington, Texas 76012-5637

Star Locke, 4929 Cain Dr., Corpus Christi, Texas 78411-4720

Juan J. Maldonado, 105 E. Expy. 83, Suite F, Pharr, Texas 78577-6560

Jessica Reyes Martinez, 629 W. 4th St., Weslaco, Texas 78596-5842

Alan Mayfield, 2601 Gholson Rd., Waco, Texas 76704-1106

Pearlie Mayfield, 2015 35th St., Lubbock, Texas 79412

Patrick W. Mizell, 3323 Richmond Ave. #C, Houston, Texas 77098-3007

Gary D. Pratt, 10541 Kelburn Dr., Houston, Texas 77016-2750

Martha Y. Reyes, 436 Mockingbird Rd., El Paso, Texas 79907-4405

Barbara M. Samuelson, P.O. Box 200700, Austin, Texas 78720-0700

James H. Stokes Jr., 1662 Creekside Dr., Sugar Land, Texas 77478-4204

Charles P. Urbina-Jones, 8000 Donore Pl. Apt. 65, San Antonio, Texas 78229-2629

Keith W. Valigura, 102 Kirkwood Ln., Conroe, Texas 77304-1724

Kathryn A. Ward, 4028 18th St., Plano, Texas 75074-7903

Donald L. Williams, 3301 Rain Dance Dr., El Paso, Texas 79936-2320

James R. Wilson, 900 N. Walnut Creek, Suite 100 PMB 364, Mansfield, Texas 76063

Deadline: Semiannual Report for Committees Due January 16, 2007

Tommy J. Azopardi, Texas Horsemen's Partnership PAC, P.O. Box 142533, Austin, Texas 78714-2533

Tommy J. Azopardi, Texans for Economic Development, 1122 Colorado St., Ste. 209, Austin, Texas 78701-2132

Leslie J. Baldwin, El Paso Pachyderms Pack Fund, 9455 Viscount Blvd., Apt. 116, El Paso, Texas 79925-7008

Leslie J. Baldwin, Ya Basta PAC, 9455 Viscount Blvd., Apt. 116, El Paso, Texas 79925-7008

Chris Barron, State Firemen's and Fire Marshals' Association Fire PAC, 4450 Frontier Trail, Austin, Texas 78745-1514

Stanley J. Briers, Plumbing Air Conditioning Mechanical Contractors Assoc., 219 Whispering Oaks Dr., Taylor Lake Village, Texas 77586

Joanne M. Cade, San Jacinto Republican Women, 5500 Genoa Red Bluff Rd., Pasadena, Texas 77505-5707

Hassan Chahadeh, University Hospital Systems LLP PAC, One Houston Center, 1221 McKinney St., Ste. 3240, Houston, Texas 77010-2037

Roland M. Chavez, Houston Professional Fire Fighters Assn. Local #341 PAC, 1907 Freeman St., Houston, Texas 77009-8334

Damon D. Edwards, ANSUN PAC, 13701 Broad Oaks Ln., Rosharon, Texas 77583-2031

Karen J. Estes, Dallas Gay & Lesbian Alliance PAC, P.O. Box 190712, Dallas, Texas 75219-0712

Maria Gage, Caldwell County Democrats, 1103 1/2 Magnolia St., Lockhart, Texas 78644-2409

Carl Garrison, The Fort Bend County Democratic Party (CEC), P.O. Box 2189, Missouri City, Texas 77459-9189

Laura L. Harden, Concerned Citizens of Venus, 501 W. County Road 109, Venus, Texas 76084-4005

Wanda J. Harris, CyFair Federation of Teachers Committee on Political Education, 17461A Village Green Dr., Houston, Texas 77040-1004

David R. Johannessen, Parents and Teachers Working Together, 5513 Rocky Mountain Rd., Fort Worth, Texas 76137

Don Mafrige, Galveston Windstorm Action Committee Inc., 4800 Seawall Blvd., Galveston, Texas 77551-7922

Edwin D. McCrory III, Commercial Real Estate Industry of Texas PAC, 5703 Sunset Oak, Spring, Texas 77379-2743

Darwin McKee, Central Texas PAC Centre Development, 4901 Hilldale Dr., Austin, Texas 78723

Neftali Partida, State of Texas Legacy PAC, 3303 Louisiana St., Ste. 145, Houston, Texas 77006-6624

Morris W. Petty Jr., Public Workers for a Better Workplace, 209A E. Main St., Grand Prairie, Texas 75050-5724

Heather Ramon-Ayala, Texans for Local Control, 3822 Blue Oak Pass, San Antonio, Texas 78223-2373

Jessie Riojas, Glass, Molders, Pottery, Plastics & Allied Workers Local Union #201, 329 N. Grand, Waxahachie, Texas 75165

Antonio Rosas, Combined Metro Police Officers Association, 619 Elm View Ct., Stafford, Texas 77477

Estelle Teague, Metroplex Republican Women's Club, 712 Bedford Ct. West, Hurst, Texas 76053

Pamela Thomas, Westlake Republican Special Campaign Fund, 5349 Goodwin Ave., Dallas, Texas 75206-6208

Victor Torres, New Leadership for Texas PAC, 1835 Lockhill Selma Rd., Apt. 1331, San Antonio, Texas 78213-1572

Lynda P. Vine, Foundation Appraisers Coalition of Texas PAC, 6106 Vance Jackson Rd., Apt. 2, San Antonio, Texas 78230-3373

Wanda Williams, Glass, Molders, Pottery, Plastics & Allied Workers Local #216, 1507 Gleason Ave., Cleburne, Texas 76033-6737

TRD-200701140

David Reisman

Executive Director

Texas Ethics Commission

Filed: March 22, 2007



Department of State Health Services

Licensing Actions for Radioactive Materials

The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Harlingen	AM Cardiovascular Specialists	L06057	Harlingen	00	03/08/07
Houston	CCNWHI LP DBA Cy Fair Cancer Center	L06050	Houston	00	02/28/07
Kerrville	Kerrville Cancer Center	L06024	Kerrville	00	03/08/07

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend-ment #	Date of Action
Arlington	Arlington Memorial Hospital	L02217	Arlington	84	03/01/07
Arlington	Texas Oncology PA DBA Texas Cancer Center	L05116	Arlington	15	02/28/07
Baytown	Baytown Cardiology Associates	L05040	Baytown	10	03/12/07
Bedford	Texas Oncology PA DBA Edwards Cancer Center	L05550	Bedford	12	02/28/07
Bonham	Attentus Bonham LP DBA Red River Regional Hospital	L03331	Bonham	33	03/01/07
Corpus Christi	Christus Health System DBA Christus Spohn Hospital Corpus Christi Memorial	L00265	Corpus Christi	85	03/13/07
Dallas	Cardinal Health	L02048	Dallas	122	03/05/07
Dallas	Criterion Imaging LTD DBA Richardson Diagnostic Imaging/Quantum Diagnostic	L05468	Dallas	11	03/07/07
Dallas	E+ Pet Imaging V LP DBA Pet Imaging of Dallas	L05726	Dallas	06	03/06/07
Dallas	Medical City Dallas Hospital DBA Medical City	L01976	Dallas	169	03/09/07
Dallas	University of Texas Southwestern Medical Center at Dallas	L05947	Dallas	06	03/12/07
Dumas	Memorial Hospital	L03540	Dumas	21	03/01/07
El Paso	El Paso Healthcare System Ltd DBA Del Sol Medical Center	L02551	El Paso	48	03/13/07
Ennis	PRHC Ennis LP DBA Ennis Regional Medical Center	L05427	Ennis	06	03/13/07
Fort Worth	Adventist Health System Sunbelt Healthcare Corporation DBA Huguley Health System	L02920	Fort Worth	31	02/28/07
Fort Worth	Harris Methodist Fort Worth	L01837	Fort Worth	107	03/05/07
Fort Worth	Physician Reliance LP DBA Texas Oncology at Klabzuba	L05545	Fort Worth	20	02/27/07
Galveston	Galveston Laboratories	L02970	Galveston	06	03/01/07
Garland	E+ Pet Imaging XII LP DBA Pet Imaging of Garland	L05875	Garland	02	02/28/07
Grapevine	Grapevine Imaging & Pain Management LLC	L05922	Grapevine	06	03/13/07
Harlingen	Valley Baptist Medical Center	L01909	Harlingen	63	03/14/07
Houston	American Diagnostic Tech LLC	L05514	Houston	37	03/09/07
Houston	Complete Cardiac Care	L05218	Houston	07	03/13/07
Houston	Comprehensive Heart Care PA	L05710	Houston	06	03/14/07
Houston	GB Biosciences Corporation	L03521	Houston	22	03/02/07
Houston	Heart Care Center of Northwest Houston	L05539	Houston	05	02/28/07
Houston	Houston Northwest Medical Center	L02253	Houston	69	03/14/07

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amendment #	Date of Action
Houston	Institute of Biosciences and Technology	L04681	Houston	26	03/09/07
Houston	Memorial Hermann Hospital System DBA Memorial Hospital Southwest	L00439	Houston	124	03/06/07
Houston	Memorial MRI and Diagnostic LLC DBA Memorial Nuclear Imaging LP	L05997	Houston	03	03/05/07
Houston	Nuclear Imaging Services	L05775	Houston	27	02/28/07
Houston	SJ Medical Center LLC	L02279	Houston	62	03/01/07
Houston	The Methodist Hospital	L00457	Houston	148	03/05/07
Houston	The Methodist Hospital	L00457	Houston	149	03/07/07
Houston	Tops Specialty Hospital LTD DBA Tops Surgical Specialty Hospital	L05441	Houston	09	03/07/07
La Porte	Sunoco Inc R&M DBA Sunoco Chemicals	L02153	La Porte	33	03/13/07
Lewisville	Granite Construction Company	L04923	Lewisville	13	03/01/07
Longview	Texas Oncology PA DBA East Texas Pet Imaging	L05489	Longview	17	03/07/07
Lubbock	Covenant Health System DBA Covenant Imaging Center	L04005	Lubbock	17	03/02/07
Lubbock	Covenant Medical Center	L00483	Lubbock	134	03/08/07
Lubbock	Radiation Oncology of the South Plains PA DBA Lubbock Cancer Center	L05484	Lubbock	11	03/09/07
Lufkin	Heart and Vascular Diagnostic Clinic	L05850	Lufkin	01	03/07/07
McAllen	McAllen Hospitals LP DBA McAllen Medical Heart Hospital	L04902	McAllen	16	03/07/07
Midland	Endeavor Energy Resources LP	L05745	Midland	08	03/01/07
Midland	Isotech Laboratories Inc	L04283	Midland	22	03/08/07
Nassau Bay	Christus Health DBA Christus St John Hospital	L03291	Nassau Bay	26	03/12/07
Odessa	Ector County Hospital District DBA Medical Center Hospital	L01223	Odessa	82	03/14/07
Orange	Invista Inc	L05777	Orange	04	03/06/07
Paris	Advanced Heart Care PA	L05290	Paris	19	02/28/07
Paris	Essent PRMC LP DBA Paris Regional Medical Center	L03199	Paris	39	03/13/07
Pasadena	Mohamed O Jeroudi MD PA	L05753	Pasadena	10	03/14/07
Pasadena	Premier Heart Specialists PA	L05750	Pasadena	06	02/28/07
Port Arthur	Christus Health Southeast Texas DBA Christus Hospital St Mary	L01212	Port Arthur	94	02/28/07
San Antonio	Petnet Solutions Inc	L05569	San Antonio	14	03/09/07
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	154	03/07/07
San Antonio	University of Texas at San Antonio Environmental Health Safety and Risk Mngmt	L01962	San Antonio	57	03/14/07
San Antonio	VHS San Antonio Partners LP DBA Baptist Health System	L00455	San Antonio	161	03/07/07
San Antonio	VHS San Antonio Partners LP DBA Baptist Health System	L00455	San Antonio	162	03/14/07
San Marcos	Central Texas Medical Center	L03133	San Marcos	22	03/01/07
Silsbee	Meadwestvaco Texas LLP	L01095	Silsbee	54	03/08/07
Stephenville	Stephenville Medical and Surgical Clinic	L05309	Stephenville	09	03/08/07
Stephenville	Tarleton State University	L05612	Stephenville	05	03/13/07
Sugar Land	E+ Pet Imaging XI LP DBA Pet Imaging of Sugar Land	L05858	Sugar Land	04	03/09/07
Throughout Tx	Amarillo Testing & Engineering Inc	L02658	Amarillo	16	03/07/07
Throughout Tx	Texas Department of Transportation	L00197	Austin	126	03/07/07
Throughout Tx	National Inspection Services LLC	L05930	Crowley	11	03/02/07
Throughout Tx	A&R Engineering and Testing Inc	L05318	Houston	04	03/05/07

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amendment #	Date of Action
Throughout Tx	H & G Inspection Company Inc ADBA Statewide Maintenance Company	L02181	Houston	216	03/01/07
Throughout Tx	METCO	L03018	Houston	169	03/06/07
Throughout Tx	Petrochem Inspection Services Inc	L04460	Houston	77	03/08/07
Throughout Tx	QC Laboratories Inc	L05956	Houston	03	03/12/07
Throughout Tx	Acuren Inspection Inc	L01774	La Porte	229	03/01/07
Throughout Tx	City of Lubbock	L01735	Lubbock	32	03/05/07
Throughout Tx	HIS Inspection Inc	L04861	Midland	15	03/05/07
Throughout Tx	Big State X-Ray	L02693	Odessa	60	03/07/07
Throughout Tx	Desert Industrial X-Ray LP	L04590	Odessa	59	03/13/07
Throughout Tx	Link Field Services Inc	L05383	Olden	20	03/05/07
Throughout Tx	Techcorr USA LLC	L05972	Pasadena	19	03/06/07
Throughout Tx	Techcorr USA LLC	L05972	Pasadena	20	03/12/07
Throughout Tx	Texas Gamma Ray LLC	L05561	Pasadena	72	03/06/07
Throughout Tx	Burge-Martinez Consulting Inc	L05907	San Antonio	04	03/06/07
Throughout Tx	Drash Consulting Engineers Inc	L04724	San Antonio	21	03/12/07
Throughout Tx	GCT Inspection Inc	L02378	South Houston	97	03/12/07
Throughout Tx	Schlumberger Technology Corporation	L00109	Sugar Land	52	03/01/07
Throughout Tx	Schlumberger Technology Corporation	L00764	Sugar Land	101	03/07/07
Tomball	Tomball Hospital Authority DBA Tomball Regional Hospital	L02514	Tomball	41	02/27/07
Tyler	East Texas Medical Center	L00977	Tyler	136	03/07/07
Tyler	East Texas Medical Center	L00977	Tyler	137	03/13/07
Webster	Diagnostic Systems Laboratories Inc	L03084	Webster	32	03/02/07

RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Denison	Texoma Heart Group	L05208	Denison	10	03/06/07
Denton	Tanveer A Qureshi MD PA DBA The Heart Center of North Texas	L04815	Denton	06	03/08/07
Houston	Gulf Coast Cancer Center	L05185	Houston	10	03/13/07
Houston	Memorial Hermann Hospital System Inc DBA Memorial Hermann Hospital	L00650	Houston	81	02/27/07
Plano	Physician Reliance Network Inc Texas Oncology Plano West Cancer Center	L05896	Plano	08	03/14/07
San Marcos	Central Texas Center for Cancer Care	L05189	San Marcos	02	03/12/07
Seymour	Baylor County Hospital District DBA Seymour Hospital	L03229	Seymour	16	02/28/07
Victoria	Victoria of Texas LP DBA Detar Hospital Navarro	L01630	Victoria	45	03/06/07

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Brownsville	SOMA Forwarding Corporation	L05846	Brownsville	01	03/06/07
Kerrville	Kerrville Radiation Therapy Center	L05135	Kerrville	04	03/07/07
Midland	West Texas Medical Center LLC	L04729	Midland	16	03/07/07
Pasadena	Vista Community Medical Ctr LLC DBA Vista Medical Ctr Hospital	L05503	Pasadena	06	03/07/07
Throughout Tx	Beavers Construction LLC DBA Beavers Contracting LLC	L05003	Aubrey	09	03/08/07

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of Title 25 Texas Administrative Code (TAC) Chapter 289 regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756-3189. For information call (512) 834-6688.

TRD-200701154
Cathy Campbell
General Counsel
Department of State Health Services
Filed: March 23, 2007

◆ ◆ ◆
Texas Department of Housing and Community Affairs

Announcement of the Opening of the Public Comment Period for the *State of Texas 2007 Consolidated Plan Annual Performance Report - Reporting on Program Year 2006 - Draft for Public Comment*

The Texas Department of Housing and Community Affairs (the "Department") announces the opening of a 18-day public comment period for the *State of Texas 2007 Consolidated Plan Annual Performance Report - Reporting on Program Year 2006 - Draft for Public Comment* (the Plan) as required by the U.S. Department of Housing and Urban Development (HUD). The Plan is required as part of the overall requirements governing the State's consolidated planning process. The Plan is submitted in compliance with 24 CFR §91.520, Consolidated Plan Submissions for Community Planning and Development Programs. The 18-day public comment period begins April 6, 2007, and continues until 5:00 p.m. on April 23, 2007.

The Plan gives the public an opportunity to evaluate the performance of the past program year for four HUD programs: the Community Development Block Grant Program administered by the Office of Rural Community Affairs, the Emergency Shelter Grants and HOME Investment Partnerships programs administered by the Department, and the Housing Opportunities for Persons with AIDS Program administered by the Texas Department of State Health Services. The following information is provided for each of the four programs covered in the Plan: a summary of program resources and programmatic accomplishments; a series of narrative statements on program performance over the past year; a qualitative analysis of program actions and experiences; and a discussion of program successes in meeting program goals and objectives.

Beginning April 6, 2007, the Plan will be available on the Department's website at www.tdhca.state.tx.us. A hard copy can be requested by contacting the Division of Policy and Public Affairs at P.O. Box 13941, Austin, Texas 78711-3941 or by calling (512) 475-3976.

Written comment is encouraged and should be sent by mail to the Texas Department of Housing and Community Affairs, Division of Policy

and Public Affairs, P.O. Box 13941, Austin, Texas 78711-3941, by e-mail to info@tdhca.state.tx.us, or by fax to (512) 469-9606. For more information or to order copies of the Plan, please contact the Division of Policy and Public Affairs at (512) 475-3976 or info@tdhca.state.tx.us.

TRD-200701185
Michael Gerber
Executive Director
Texas Department of Housing and Community Affairs
Filed: March 27, 2007

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Texas Department of Insurance

Company Licensing

Application to change the name of AMERICAN FARMERS & RANCHERS MUTUAL INSURANCE COMPANY to AMERICAN FARMERS & RANCHERS INSURANCE COMPANY a foreign fire and/or casualty company. The home office is in Oklahoma City, Oklahoma.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-200701201
Gene C. Jarmon
Chief Clerk and General Counsel
Texas Department of Insurance
Filed: March 28, 2007

◆ ◆ ◆
Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application of EMPYREAN INSURANCE SERVICES, INC., a domestic third party administrator. The home office is HOUSTON, TEXAS.

Application to change the name of MAGELLAN BEHAVIORAL HEALTH SYSTEM, LLC to MAGELLAN BEHAVIORAL HEALTH SYSTEM, LLC (using the assumed name of MAGELLAN HEALTH SOLUTIONS), a foreign third party administrator. The home office is SANDY, UTAH.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of Matt Ray, MC 107-1A, 333 Guadalupe, Austin, Texas 78701.

TRD-200701131

Gene C. Jarmon

Chief Clerk and General Counsel

Texas Department of Insurance

Filed: March 21, 2007



Texas Lottery Commission

Instant Game Number 808 "3-D Tic Tac Toe"

1.0 Name and Style of Game.

A. The name of Instant Game No. 808 is "3-D TIC-TAC-TOE." The play style is "row/column/diagonal."

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 808 shall be \$3.00 per ticket.

1.2 Definitions in Instant Game No. 808.

A. Display Printing--That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint--The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol--The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: COIN SYMBOL, MONEY BAG SYMBOL, POT OF GOLD SYMBOL, STACK OF MONEY SYMBOL, GOLD BAR SYMBOL, MONEY CLIP SYMBOL, DOLLAR BILL SYMBOL, TREASURE CHEST SYMBOL and VAULT SYMBOL.

D. Play Symbol Caption--The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 808 - 1.2D

PLAY SYMBOL	CAPTION
COIN SYMBOL	COIN
MONEY BAG SYMBOL	BAG
POT OF GOLD SYMBOL	GOLD
STACK OF MONEY SYMBOL	MNY
GOLD BAR SYMBOL	BAR
MONEY CLIP SYMBOL	CLIP
DOLLAR BILL SYMBOL	BILL
TREASURE CHEST SYMBOL	CHEST
VAULT SYMBOL	VAULT

E. Retailer Validation Code--Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for validation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 808 - 1.2E

CODE	PRIZE
THR	\$3.00
FIV	\$5.00
SIX	\$6.00
TEN	\$10.00
FTN	\$15.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number--A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize--A prize of \$3.00, \$5.00, \$6.00, \$10.00, \$15.00 and \$20.00.

H. Mid-Tier Prize--A prize of \$30.00, \$100, \$200, \$300 and \$400.

I. High-Tier Prize--A prize of \$600, \$3,000 and \$30,000.

J. Bar Code--A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number--A 13 (thirteen) digit number consisting of the three (3) digit game number (808), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 808-0000001-001.

L. Pack--A pack of "3-D TIC-TAC-TOE" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the pack; the back of ticket 125 will be revealed on the back of the pack. All packs will be tightly shrink-wrapped. There will be no breaks between the tickets in a pack. Every other book will reverse i.e., reverse order will be: the back of ticket 001 will be shown on the front of the pack and the front of ticket 125 will be shown on the back of the pack.

M. Non-Winning Ticket--A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket--A Texas Lottery "3-D TIC-TAC-TOE" Instant Game No. 808 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "3-D TIC-TAC-TOE" Instant Game is determined once the latex on the ticket is scratched off to expose 27 (twenty-seven) Play Symbols. A player scratches all of the "X's" and "O's" in each of the three GAMES. For each GAME, if the player reveals 3 matching play symbols in a complete row or column, the player wins the prize shown in the marker pointing to that row or column. Each GAME is played separately. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 27 (twenty-seven) Play Symbols must appear under the latex overprint on the front portion of the ticket;
 2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
 3. Each of the Play Symbols must be present in its entirety and be fully legible;
 4. Each of the Play Symbols must be printed in black ink except for dual image games;
 5. The ticket shall be intact;
 6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
 7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
 8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
 9. The ticket must not be counterfeited in whole or in part;
 10. The ticket must have been issued by the Texas Lottery in an authorized manner;
 11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
 12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
 13. The ticket must be complete and not miscut, and have exactly 27 (twenty-seven) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
 14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;
 15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;
 16. Each of the 27 (twenty-seven) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;
 17. Each of the 27 (twenty-seven) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;
 18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and
 19. The ticket must have been received by the Texas Lottery by applicable deadlines.
- B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.
- C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's

discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. Consecutive non-winning tickets within a book will not have identical patterns.

B. A ticket can win up to 3 times as indicated by the prize structure.

C. On all tickets, there will never be three (3) matching symbols in any diagonal line.

D. On all tickets, no symbol will appear more than four (4) times.

E. Players can win only once per GAME.

F. On winning GAMES, three (3) matching symbols will appear in a row or column.

G. No GAME will contain four (4) matching symbols in the 4 corners.

H. Winning tickets will win as per the prize structure and based on the legend on the ticket front for each GAME.

I. On non-winning tickets, there will never be three (3) matching symbols in any row or column.

2.3 Procedure for Claiming Prizes.

A. To claim a "3-D TIC-TAC-TOE" Instant Game prize of \$3.00, \$5.00, \$6.00, \$10.00, \$15.00, \$20.00, \$30.00, \$100, \$200, \$300 or \$400, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$30.00, \$100, \$200, \$300 or \$400 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "3-D TIC-TAC-TOE" Instant Game prize of \$600, \$3,000 or \$30,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "3-D TIC-TAC-TOE" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "3-D TIC-TAC-TOE" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "3-D TIC-TAC-TOE" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code §466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature

appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 6,000,000 tickets in the Instant Game No. 808. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 808 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$3	564,000	10.64
\$5	324,000	18.52
\$6	336,000	17.86
\$10	96,000	62.50
\$15	96,000	62.50
\$20	72,000	83.33
\$30	28,500	210.53
\$100	6,250	960.00
\$200	2,250	2,666.67
\$300	450	13,333.33
\$400	450	13,333.33
\$600	250	24,000.00
\$3,000	25	240,000.00
\$30,000	8	750,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 3.93. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 808 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 808, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-200701147
 Kimberly L. Kiplin
 General Counsel
 Texas Lottery Commission
 Filed: March 23, 2007



Instant Game Number 830 "Instant Bingo"

1.0 Name and Style of Game.

A. The name of Instant Game No. 830 is "INSTANT BINGO." The play style is "bingo with bonus spot."

1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 830 shall be \$2.00 per ticket.

1.2 Definitions in Instant Game No. 830.

A. Display Printing--That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint--The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol--The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: B01, B02, B03, B04, B05, B06, B07, B08, B09, B10, B11, B12, B13, B14, B15, I16, I17, I18, I19, I20, I21, I22, I23, I24, I25, I26, I27, I28, I29, I30, N31, N32, N33, N34, N35, N36, N37, N38, N39, N40, N41, N42, N43, N44, N45, G46, G47, G48, G49, G50, G51, G52, G53, G54, G55, G56, G57, G58, G59, G60, O61, O62, O63, O64, O65, O66, O67, O68, O69,

O70, O71, O72, O73, O74, O75, 01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, FREE, TWO, THREE, FIVE, TEN, TWENTY, FIFTY, ONEHUN, TRY and PLAY.

D. Play Symbol Caption--the printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears

under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 830 - 1.2D

PLAY SYMBOL	CAPTION
B01	
B02	
B03	
B04	
B05	
B06	
B07	
B08	
B09	
B10	
B11	
B12	
B13	
B14	
B15	
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N43	
N44	
N45	
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72	
73	
74	
75	
FREE	
TWO	DOLLARS
THREE	DOLLARS
FIVE	DOLLARS
TEN	DOLLARS
TWENTY	DOLLARS
FIFTY	DOLLARS
ONEHUN	DOLLARS
TRY	AGAIN
PLAY	AGAIN

E. Retailer Validation Code--Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 830 - 1.2E

CODE	PRIZE
TWO	\$2.00
THR	\$3.00
FIV	\$5.00
TEN	\$10.00
FTN	\$15.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number--A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The format will be: 0000000000000.

G. Low-Tier Prize--A prize of \$2.00, \$3.00, \$5.00, \$10.00, \$15.00 or \$20.00.

H. Mid-Tier Prize--A prize of \$30.00, \$50.00, \$100, or \$500.

I. High-Tier Prize--A prize of \$1,000 or \$30,000.

J. Bar Code--A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven

(7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number--A 13 (thirteen) digit number consisting of the three (3) digit game number (830), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 830-0000001-001.

L. Pack--A pack of "INSTANT BINGO" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of one (1). Ticket 001 will be shown on the front of the pack; the back of ticket 125 will be revealed on the back of the pack. All packs will be tightly shrink-wrapped. There will be no breaks between the tickets in a pack. Every other book will reverse i.e., reverse order will be: the back of ticket 001 will be shown on the front of the pack and the front of ticket 125 will be shown on the back of the pack.

M. Non-Winning Ticket--A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery

pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket--A Texas Lottery "INSTANT BINGO" Instant Game No. 830 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule, §401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "INSTANT BINGO" Instant Game is determined once the latex on the ticket is scratched off to expose 131 (one hundred thirty-one) play symbols. The player must scratch off the CALLER'S CARD area to reveal 24 (twenty-four) Bingo Numbers and six (6) Bonus Numbers. The player must scratch all the Bingo Numbers on CARDS 1 through 4 that match the Bingo Numbers and Bonus Numbers on the CALLER'S CARD. Each CARD has a corresponding prize box. Players win by matching those same numbers on the four Player's Cards. If the player finds a diagonal, vertical or horizontal straight line, the four corners of the grid, or an X pattern, they win a prize according to the legend of the respective playing grid. Examples of play: If a player matches all bingo numbers plus the Free Space in a complete horizontal, vertical or diagonal line pattern in any one card, the player wins prize according to the legend of the respective playing card. If the player matches all bingo numbers in all four (4) corners pattern in any one card, the player wins prize according to the legend of the respective playing card. If the player matches all bingo numbers plus Free Space to make a complete "X" pattern in any one card, the player wins prize according to the legend of the respective playing card. In the Instant Bonus play area, if a player reveals a prize amount, the player wins prize indicated automatically. The player can win up to four times on any ticket but only once on each "card". No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 131 (one hundred thirty-one) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 131 (one hundred thirty-one) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 131 (one hundred thirty-one) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 131 (one hundred thirty-one) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

2.2 Programmed Game Parameters.

A. A ticket will win as indicated by the prize structure.

B. A ticket can win up to four times and only once per Card.

C. Adjacent tickets in a pack will not have identical patterns.

D. There will never be more than one win on a single BINGO CARD.

E. No duplicate numbers will appear on the CALLER'S CARD and BONUS NUMBERS.

F. No duplicate numbers will appear on each individual BINGO CARD.

G. Each CALLER'S CARD will have a minimum of four (4) and a maximum of six (6) numbers from each range per letter. The BONUS NUMBERS will have a minimum of one (1) and a maximum of two (2) numbers for each range per letter.

H. The number range used for each letter will be as follows: B: 01-15; I: 16-30; N: 31-45; G: 46-60; O: 61-75.

I. Each Player's Card on the same ticket must be unique.

J. Instant Bonus Game: The Play area consists of one (1) Play Symbol.

K. Instant Bonus Game: Tickets that do not win in the Bonus Area will display one of the non-winning play symbols.

L. Instant Bonus Game: Winning tickets will display a prize amount: TWO DOLLARS, THREE DOLLARS, FIVE DOLLARS, TEN DOLLARS, TWENTY DOLLARS, FIFTY DOLLARS, OR ONEHUNDRED DOLLARS.

2.3 Procedure for Claiming Prizes.

A. To claim a "INSTANT BINGO" Instant Game prize of \$2.00, \$3.00, \$5.00, \$10.00, \$15.00, \$20.00, \$30.00, \$50.00, \$100, or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$30.00, \$50.00, \$100, or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "INSTANT BINGO" Instant Game prize of \$1,000 or \$30,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "INSTANT BINGO" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;
2. delinquent in making child support payments administered or collected by the Attorney General; or
3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "INSTANT BINGO" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "INSTANT BINGO" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 30,000,000 tickets in the Instant Game No. 830. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 830 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$2	3,480,000	8.62
\$3	1,320,000	22.73
\$5	1,440,000	20.83
\$10	360,000	83.33
\$15	120,000	250.00
\$20	240,000	125.00
\$30	61,250	489.80
\$50	82,500	363.64
\$100	30,625	979.59
\$500	2,250	13,333.33
\$1,000	65	461,538.46
\$30,000	15	2,000,000.00

*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

**The overall odds of winning a prize are 1 in 4.20. The individual odds of winning for a particular prize level may vary based on sales, distribution, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 830 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 830, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC Chapter 401, and all final decisions of the Executive Director.

TRD-200701148
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: March 23, 2007

Assistant to the General Counsel, Texas Lottery Commission at (512) 344-5113 at least 72 hours prior to the public hearing.

TRD-200701168
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: March 26, 2007

Texas Parks and Wildlife Department

Notice of Availability and Opportunity to Comment

Proposed Modifications to the Statewide Vegetation Management Plan

Pursuant to the requirements of 31 TAC §57.132, the Texas Parks and Wildlife Department (TPWD) is soliciting public comment from interested parties concerning potential modifications to the TPWD guidance document for the Statewide Vegetation Management Plan (Plan). The Plan is the statewide mechanism providing for the coordination, oversight, guidance, and, where applicable, public notice and enforcement of all activities related to the management of nuisance aquatic vegetation on public bodies of surface water, including, but not limited to, coordination, oversight, public notification, and enforcement of all aquatic herbicide use to protect state fish and wildlife resources and habitat and to prevent unreasonable risk from the use of any aquatic herbicide.

The potential modifications to the Plan are as follows:

1. In Part E, there are procedural changes in how to develop and submit a treatment proposal for aquatic vegetation management activities.

Public Comment Hearing

A public hearing to receive public comments regarding proposed new 16 TAC §401.307, relating to "Pick 3" On-Line Game Rule; proposed new 16 TAC §401.316, relating to "Daily 4" On-Line Game Rule; and proposed amendments to 16 TAC §401.302, relating to Instant Game Rules will be held on Friday, April 20, 2007, at 10:00 a.m. at the Texas Lottery Commission, Commission Auditorium, First Floor, 611 E. Sixth Street, Austin, Texas 78701. Persons requiring any accommodation for a disability should notify Michelle Guerrero, Executive

For example, treatment proposals should be sent directly to the District Supervisors that manage the lakes in questions.

2. In Appendix F, there are changes in the protocol for the use of triploid grass carp in public water. Public hearing requirements have been modified.

3. There is a new appendix that provides herbicide information in a table.

The entire guidance document may be viewed online at www.tpwd.state.tx.us/landwater/water/enviroconcerns/nuisance_plants/newguide/.

Comments will be accepted for 60 days following the publication of this notice.

To comment on the potential modifications or to obtain further information on the guidance document, contact Dr. Earl Chilton, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, (512) 389-4652.

TRD-200701202

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Filed: March 28, 2007



Public Utility Commission of Texas

Announcement of Application for an Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on March 20, 2007, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Time Warner Cable for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 34032 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34032.

TRD-200701159

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: March 23, 2007



Announcement of Application for an Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on March 23, 2007, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Friendship Cable of Texas, Inc. d/b/a Suddenlink Communications for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 34047 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34047.

TRD-200701188

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: March 27, 2007



Announcement of Application for an Amendment to a State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on March 20, 2007, for an amendment to a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Time Warner Cable for an Amendment to its State-Issued Certificate of Franchise Authority, Project Number 34055 before the Public Utility Commission of Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All inquiries should reference Project Number 34055.

TRD-200701193

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: March 27, 2007



Notice of Application for Amendment to Certificated Service Area Boundary

Notice is given to the public of an application filed on March 29, 2007, with the Public Utility Commission of Texas, for an amendment to a certificated service area boundary in Collin County, Texas.

Docket Style and Number: Application of AT&T Texas to Amend a Certificate of Convenience and Necessity for a Minor Boundary Amendment between the Prosper and Frisco Exchanges. Docket Number 34024.

The Application: The minor boundary amendment is being filed to transfer a small portion of the serving area from the Prosper exchange to the Frisco exchange of AT&T. This amendment will allow AT&T to serve a proposed new subdivision entirely from the Frisco exchange.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas by April 13, 2007, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 34024.

TRD-200701143

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 22, 2007



Notice of Application for Amendment to Certificated Service Area Boundary

Notice is given to the public of an application filed on March 22, 2007 with the Public Utility Commission of Texas, for an amendment to a certificated service area boundary in Gillespie County, Texas.

Docket Style and Number: Application of Hill Country Telephone Cooperative, Inc. for an Amendment to a Certificate of Convenience and Necessity for a Service Area Boundary within Gillespie County, Texas. Docket Number 34046.

The Application: The minor boundary amendment is being filed to add uncertified territory within Gillespie County, Texas.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas by April 13, 2007, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 34046.

TRD-200701191
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 27, 2007



Notice of Application for Certificate of Convenience and Necessity for a Proposed Transmission Line in Wilson County, Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on March 22, 2007, for a certificate of convenience and necessity for a proposed transmission line in Wilson County, Texas

Docket Style and Number: Application of Guadalupe Valley Electric Cooperative, Inc. to Amend a Certificate of Convenience and Necessity for a 138kv Transmission Line Wilson to Sutherland Springs in Wilson County, Texas. Docket Number 33940.

The Application: The application of Guadalupe Valley Country Electric Cooperative, Inc. (GVEC) for a proposed transmission line is designated the Wilson to Sutherland Springs Transmission Line. In order to improve customer delivery point voltages and enhance transmission system reliability, GVEC with assistance from the Floresville Electric Light and Power System, will construct additions and modification to its transmission system. The miles of right-of-way for this project will be approximately 9 miles (preferred route). The estimated date to energize facilities is January 2009.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. The deadline for intervention in this proceeding is May 6, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136

or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 33940.

TRD-200701189
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 27, 2007



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on March 19, 2007, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Mobilitie, LLC for a Service Provider Certificate of Operating Authority, Docket Number 34023 before the Public Utility Commission of Texas.

Applicant intends to provide RF transport services for business subscribers.

Applicant's requested SPCOA geographic area includes the entire State of Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 11, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34023.

TRD-200701142
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 22, 2007



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on March 20, 2007, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Bandwidth.com CLEC, LLC for a Service Provider Certificate of Operating Authority, Docket Number 34030 before the Public Utility Commission of Texas.

Applicant intends to provide plain old telephone service, and long distance services.

Applicant's requested SPCOA geographic area includes the area of Texas served by all incumbent local exchange companies.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 11, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34030.

TRD-200701144

Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 22, 2007



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on March 23, 2007, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Greater Harris County 9-1-1 Emergency Network for a Service Provider Certificate of Operating Authority, Docket Number 34049 before the Public Utility Commission of Texas.

Applicant intends to provide 9-1-1 database services.

Applicant's requested SPCOA geographic area includes the area of Texas currently served by all incumbent local exchange companies.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than April 11, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34049.

TRD-200701192
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 27, 2007



Notice of Application to Amend a Certificate of Convenience and Necessity for a Proposed Transmission Line in Caldwell, Guadalupe, Hays, Travis and Williamson Counties, Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) an application on March 20, 2007, to amend a certificate of convenience and necessity for a proposed transmission line in Caldwell, Guadalupe, Hays, Travis and Williamson Counties, Texas.

Docket Style and Number: Application of LCRA Transmission Services Corporation to Amend its Certificate of Convenience and Necessity (CCN) for a 345-kV Transmission Line in Caldwell, Guadalupe, Hays, Travis and Williamson Counties, Texas. Docket Number 33978.

The Application: The application of LCRA Transmission Services Corporation (LCRA TSC) for a proposed transmission line designated as the Clear Springs/Zorn to Hutto Transmission Line Project. LCRA TSC stated that the proposed transmission line is the result of a coordinated regional planning process directed by the Electric Reliability Council of Texas (ERCOT) to address both the reliability of service requirements, and ongoing and anticipated transmission congestion in the Central Texas area. The miles of right-of-way for this project will be approximately 85 miles (preferred route). The estimated date to energize facilities is August 2011.

Persons wishing to intervene or comment on the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or

toll-free at 1-888-782-8477. The deadline for intervention in this proceeding is May 4, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 33978.

TRD-200701141
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 22, 2007



Notice of Application to Amend Certificated Service Area Boundaries in Maverick County, Texas

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on March 21, 2007, for an amendment to certificated service area boundaries within Maverick County, Texas.

Docket Style and Number: Joint Application of Rio Grande Electric Cooperative, Inc. and AEP Texas Central Company to Amend a Certificate of Convenience and Necessity within Maverick County, Texas. Docket Number 34036.

The Application: Rio Grande Electric Cooperative, Inc. and AEP Texas Central Company request a service area boundary amendment to allow agreement on provision of electric utility service to Lewis Farm Estates Unit Nos. 4 and 5 residential subdivision. An agreement on the division of the subdivision will allow both utilities to maximize the utilization of their respective distribution infrastructure.

Persons wishing to comment on the action sought or intervene should contact the Public Utility Commission of Texas no later than April 13, 2007 by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll-free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All comments should reference Docket Number 34036.

TRD-200701190
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 27, 2007



Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing on March 20, 2007, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on or about April 2, 2007.

Docket Title and Number: Application of Central Telephone Company of Texas, doing business as Embarq, for four new transmission speeds associated with Enhanced Frame Relay Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34028.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 34028. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility

Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34028.

TRD-200701157
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 23, 2007



Notice of Intent to File LRIC Study Pursuant to P.U.C. Substantive Rule §26.214

Notice is given to the public of the filing on March 20, 2007, with the Public Utility Commission of Texas (commission), a notice of intent to file a long run incremental cost (LRIC) study pursuant to P.U.C. Substantive Rule §26.214. The Applicant will file the LRIC study on or about April 2, 2007.

Docket Title and Number: Application of United Telephone Company of Texas, Inc., doing business as Embarq, for four new transmission speeds associated with Enhanced Frame Relay Service Pursuant to P.U.C. Substantive Rule §26.214, Docket Number 34029.

Any party that demonstrates a justiciable interest may file with the administrative law judge, written comments or recommendations concerning the LRIC study referencing Docket Number 34029. Written comments or recommendations should be filed no later than 45 days after the date of a sufficient study and should be filed at the Public Utility Commission of Texas, by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34029.

TRD-200701158
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 23, 2007



Requests for Proposals to Provide Workforce Analysis Services

The Public Utility Commission of Texas (commission or PUCT) is issuing a Request for Proposals (RFP) for major consulting services. The consultant will assist the PUCT by providing a workforce analysis of the Electric Reliability Council of Texas (ERCOT). This RFP is being undertaken pursuant to the commission's statutory responsibility as provided for in the Public Utility Regulatory Act (PURA) §39.151(d) and (d-1).

To be considered, the proposals must arrive at the PUCT on or before the deadline stated on the RFP. This deadline is available on the PUCT website (www.puc.state.tx.us). The vendor must be prepared to begin providing services on or around Friday, May 18, 2007.

Entities that meet the definition of a historically underutilized business (HUB), as defined in Chapter 2161, Texas Government Code, §2161.001, are encouraged to submit a proposal or to submit a proposal jointly with a non-HUB entity.

Project Description. The Contractor will provide a review, analysis, and assessment of the workforce at the ERCOT. The Contractor will undertake, but is not limited to, the following tasks:

- * review and evaluate current organizational design and effectiveness;
- * review and evaluate current performance measurement goals and achievement, including the appropriateness of the chosen measures;
- * review and evaluate current workforce staffing, including staffing levels, staffing mix, and retention and recruitment for non-executive positions;
- * review and evaluate ERCOT's use of contract workers, including changes in percentage of the total workforce over time, use in filling professional and non-professional positions, extent to which contracting is planned, and cost compared to employees;
- * evaluate whether the current organizational structure and workforce, including the mix of employees and contract workers, are appropriate for ERCOT's mission and responsibilities; and
- * recommend specific changes for areas that are not effective, including a timeline by which changes should be accomplished.

Selection Criteria. The PUCT shall make the selection and award on the basis of the proposer's demonstrated knowledge, competence, and qualifications to provide the services outlined in Attachment A of the RFP as evidenced by:

- * proposer's description of its plan to provide the services, understanding of the issues related to this engagement, and understanding of the scope of this engagement;
- * proposer's previous history, if any, working with the PUCT;
- * whether proposer is a HUB or a business affiliation that includes a HUB;
- * issues related to conflicts of interest, if any; and
- * on the reasonableness of the proposed fee.

All other factors being equal, preference will be given to a proposer whose principal place of business is in the state or who will manage the consulting contract wholly from an office in the state.

Requesting the Proposal. A complete copy of the RFP may be obtained by written request to Ben Delamater, Purchaser, Public Utility Commission of Texas, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701, or by fax (512) 936-7058, or by e-mail ben.delamater@puc.state.tx.us. You may also download the RFP from the PUC website www.puc.state.tx.us, by choosing "Procurement/HUB" from the menu on the right, and from the Electronic State Business Daily website at <http://esbd.tbpc.state.tx.us>.

Deadline for Receipt of Proposals. Proposals must be received on or before the deadline, stated on the RFP, in the Public Utility Commission of Texas Central Records Division. Proposals received after the deadline will not be considered. Proposals may be received in Central Records between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on holidays. In determining the time and date of receipt, the commission will rely solely on the time/date stamp of Central Records.

TRD-200701156
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: March 23, 2007



Texas Council on Purchasing from People with Disabilities

Notice of Award

The Texas Building and Procurement Commission (TBPC), on behalf of the Texas Council on Purchasing from People with Disabilities (TCPPD), announces the award of a contract for Central Non-Profit Agency Services as solicited in Request for Proposal #303-7-10740. The contract has been awarded to TIBH Industries, Incorporated by vote of the TCPPD at its quarterly meeting held on March 23, 2007.

For further information contact TBPC Statewide Procurement, Attention: David Bennett, fax: (512) 236-6161, e-mail: david.bennett@tbpc.state.tx.us or through the *Electronic State Business Daily*: <http://esbd.tbpc.state.tx.us/>. Then enter Req. No. "303-7-10740" in the blank provided and click FIND.

TRD-200701160

Ingrid K. Hansen

General Counsel, Texas Building and Procurement Commission

Texas Council on Purchasing from People with Disabilities

Filed: March 23, 2007



Texas Department of Transportation

Aviation Division - Request for Proposal for Aviation Engineering Services

The Town of Pecos City, through its agent the Texas Department of Transportation (TxDOT), intends to engage an aviation professional engineering firm for services pursuant to Government Code, Chapter 2254, Subchapter A. TxDOT Aviation Division will solicit and receive proposals for professional aviation engineering design services described below:

Airport Sponsor: Town of Pecos City, Pecos Municipal Airport. TxDOT CSJ No.:0706PECOS. Scope: Provide engineering/design services to rehabilitate terminal apron pavement near refueling pad, replace existing electrical cable run from vault to RW 9-27, replace existing MIRL RW 14-32 and recondition existing airport tetrahedron.

The **DBE** goal is set at **6%**. TxDOT Project Manager is Charles Graham.

To assist in your proposal preparation the most recent Airport Layout Plan, 5010 drawing, and project description are available online at www.dot.state.tx.us/avn/avninfo/notice/consult/index.htm by selecting "Pecos Municipal Airport".

Interested firms shall utilize the latest version of Form AVN-550, titled "Aviation Engineering Services Proposal". The form may be requested from TxDOT Aviation Division, 125 E. 11th Street, Austin, Texas 78701-2483, phone number, 1-800-68-PILOT (74568). The form may be emailed by request or downloaded from the TxDOT web site, URL address <http://www.dot.state.tx.us/forms/aviation/550.doc>. The form may not be altered in any way. All printing must be in black on white paper, except for the optional illustration page. Firms must carefully follow the instructions provided on each page of the form. Proposals may not exceed the number of pages in the proposal format. The proposal format consists of seven pages of data plus two optional pages consisting of an illustration page and a proposal summary page. Proposals shall be stapled but not bound in any other fashion. **PROPOSALS WILL NOT BE ACCEPTED IN ANY OTHER FORMAT. ATTENTION:** To ensure utilization of the latest version of Form AVN-550, firms are encouraged to download Form AVN-550 from the TxDOT website as addressed above. Utilization of Form AVN-550 from a previous download may not be the exact same format. Form AVN-550 is an MS Word Template.

Please note:

Six completed, unfolded copies of Form AVN-550 **must be received** by TxDOT Aviation Division at 150 E. Riverside Drive, 5th Floor, South Tower, Austin, Texas 78704 no later than May 4, 4:00 p.m. Electronic facsimiles or forms sent by email will not be accepted. Please mark the envelope of the forms to the attention of Edie Stimach.

The consultant selection committee will be composed of Aviation Division staff and one local government member. The final selection by the committee will generally be made following the completion of review of proposals. The committee will review all proposals and rate and rank each. The criteria for evaluating engineering proposals can be found at <http://www.dot.state.tx.us/services/aviation/consultant.htm>. All firms will be notified and the top rated firm will be contacted to begin fee negotiations. The selection committee does, however, reserve the right to conduct interviews for the top rated firms if the committee deems it necessary. If interviews are conducted, selection will be made following interviews.

If there are any procedural questions, please contact Edie Stimach, Grant Manager, or Charles Graham, Project Manager, for technical questions at 1-800-68-PILOT (74568).

TRD-200701173

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: March 26, 2007



Notice of Intent - Environmental Impact Statement

Pursuant to Title 43, Texas Administrative Code, §2.12(d) concerning environmental impact statements (EISs), the Texas Department of Transportation (department) issues this revised Notice of Intent (NOI) to advise the public concerning the proposed US 181 Harbor Bridge replacement/State Highway (SH) 286 (Crosstown Expressway) improvement highway project in Nueces County, Texas. The project and study limits described in the May 27, 2005, NOI have been expanded.

The Federal Highway Administration (FHWA), in cooperation with the department, is preparing an EIS for a proposal to replace the existing US 181 Harbor Bridge and construct improvements to SH 286. The proposed improvements described in the original NOI would involve replacement of the existing Harbor Bridge and approaches where US 181 crosses the Corpus Christi Ship Channel for a roadway distance of approximately 2.25 miles. The proposed roadway is listed in the Corpus Christi Metropolitan Transportation Plan Fiscal Year 2007-2030 that was approved on December 7, 2006. Since the original NOI was published the project and study limits have been expanded to accommodate added capacity that may include managed lanes or various tolling strategies.

The project limits are defined as the limits of the schematic design. The new project limits are as follows: the northern limit is the US 181 and Beach Avenue interchange located north of the Corpus Christi Ship Channel but south of the Nueces Bay Causeway; the southern limit is the SH 286 and SH 358 (South Padre Island Drive) interchange; the eastern limit is the Interstate Highway (IH) 37/US 181 intersection with Shoreline Boulevard; and the western limit is the IH 37 and Nueces Bay Boulevard interchange. The new project limits total approximately 7.5 miles in length from north to south along US 181 and SH 286, and 2.1 miles in length from east to west along IH 37.

The study limits are defined as the limits of potential impacts from the proposed action. The new study limits are as follows: the northern limit is the US 181 and SH 35 interchange just south of Gregory; the southern limit is the SH 286 and SH 358 (South Padre Island Drive)

interchange; the eastern limit is Shoreline Boulevard; and the western limit is the IH 37 and SH 358 (North Padre Island Drive) interchange.

The proposed Harbor Bridge and SH 286 improvements are based on several needs: safety concerns, lack of capacity, connectivity to local roadways, poor level of service, and increasing traffic demand. In addition to those needs, the bridge's existing structure also has deficiencies, including high maintenance costs and shipping height restrictions. The improvements to both the Harbor Bridge and SH 286 will address the structural deficiencies and improve safety, connectivity, and level of service.

Alternatives under consideration include: (1) taking no action, and (2) replacing the existing US 181 Harbor Bridge and approach roads, including SH 286, with a facility that meets current highway standards. A Feasibility Study completed in 2003 evaluated four corridor alternatives along existing alignments--new alignments and a No-build alternative--resulting in the identification of a recommended study corridor for the bridge replacement component. Capacity improvements and interchange design alternatives will be evaluated along the SH 286 corridor. A reasonable number of alignment alternatives will be identified and evaluated in the EIS, as well as the No-build Alternative, based on input from federal, state, and local agencies, as well as private organizations and concerned citizens. Alternative designs and funding alternatives will include tolling options or new managed lanes.

Impacts caused by the construction and operation of the proposed improvements would vary according to the selected alignment. Impacts generally would include the following: impacts to residences and businesses, including potential relocation; impacts to parkland; transportation impacts (construction detours, construction traffic, and mobility improvement); air and noise impacts from construction equipment and operation of the roadway; social and economic impacts, including impacts to minority and low-income residences; impacts to historic cultural resources; endangered and threatened species and impacts to waters of the U.S. including wetlands from right-of-way encroachment; and potential indirect and cumulative impacts.

A letter that describes the proposed action and a request for comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed interest in the proposal. In conjunction with the Feasibility Study completed in June 2003, the department developed a public involvement plan, sponsored three citizens' advisory committee (CAC) meetings, held two public meetings, and distributed two newsletters. Initial agency and public scoping meetings were held in June 2005.

An additional scoping meeting will be held for representatives from various cooperating agencies. The meeting will be at the department's Corpus Christi District Office, located at 1701 South Padre Island Drive, Corpus Christi, Texas, on Thursday May 17, 2007 at 1:30 PM. The department staff will describe the revised limit of the project area, introduce project team members, obtain comments pertaining to the scope of the EIS, identify important issues, set goals, and respond to questions.

An additional scoping meeting will be held for the public. The meeting will be held at Oveal Williams Senior Activity Center, located at 1414 Martin Luther King Drive, Corpus Christi, Texas, at 5:30 PM on Thursday May 17, 2007.

All interested citizens are encouraged to attend these meetings. Maps of the study area will be displayed at the meetings. A scoping meeting is an opportunity for participating agencies, cooperating agencies, and the public to be involved in defining the need and purpose for the proposed project, and to assist in determining the range of alternatives for consideration in the Draft EIS. A continuing public involvement program will include a project mailing list, project website, project

newsletters, and numerous informal meetings with interested citizens and stakeholders.

A public hearing will be held after the publication of the Draft EIS. Public notice will be given of the time and place of the hearing, and the Draft EIS will be available for public and agency review and comment prior to the hearing.

Agency Contact: Comments or questions concerning this proposed action and the EIS should be directed to Paula Sales-Evans, P.E., Texas Department of Transportation, Director of Transportation Planning and Development, Corpus Christi District, 1701 South Padre Island Drive, Corpus Christi, Texas 78416; phone (361) 808-2222.

TRD-200701134

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: March 22, 2007



Notice of Request for Proposal - New Freedom Transportation Projects for Services Targeted to Individuals with Disabilities

The Texas Department of Transportation (department) announces a Request for Proposal (RFP) for transportation projects for services targeted to individuals with disabilities. New Freedom program funds are available for capital and operating expenses that support **new public transportation services beyond those required by the American's with Disabilities Act (ADA) and new public transportation alternatives beyond those required by the ADA** designed to assist individuals with disabilities with accessing transportation services, including transportation to and from jobs and employment support services. Both new public transportation services and new public transportation alternatives are required to go beyond the requirements of the ADA and must (1) be targeted toward individuals with disabilities; and (2) meet the intent of the program by removing barriers to transportation and assisting persons with disabilities with transportation, including transportation to and from jobs and employment services.

The project will be funded through the Federal Transit Administration's (FTA) New Freedom Program (NF), 42 U.S.C. §5317, and will be administered by the department in compliance with department rules, published at 43 Texas Administrative Code §31.18. The RFP is available in electronic and printed format from the department. See "To Obtain a Copy of the RFP" later in this notice.

Eligible Applicants: Eligible applicants include local governmental authorities, private nonprofit organizations, operators of public transportation services, and private for-profit operators of public transportation services.

Availability of Funds: A maximum of \$2,466,674 (\$1,396,426 for areas 50,000 to 199,999 population and \$1,070,248 for areas less than 50,000 in population) is available from FY 06 to fund the competitively selected NF proposals requested by this RFP. An applicant may request up to three year's of funding for the project. The department anticipates the project period to be from September 1, 2007 to August 31, 2010.

Program Goal: The department's goal in administering the NF program is to provide new or improved public transportation services and alternatives, beyond the requirements of the ADA, to assist individuals with disabilities. To achieve this goal, the department's objectives are to:

(1) promote the development and maintenance of a network of transportation services and alternatives, beyond the requirements of the ADA, for persons with disabilities throughout the state, in partner-

ship with local officials, public and private non-profit agencies, and operators of public transportation services;

(2) fully integrate the NF program with other federal, state, and local resources and programs that are designed to serve similar populations;

(3) foster the development of local, coordinated public and human service transportation service plans from which NF projects are derived;

(4) improve the efficiency, effectiveness, and safety of NF project providers through the provision of technical assistance; and

(5) include private sector operators in the overall plan to provide NF program transportation services for persons with disabilities.

Eligible Projects: Eligible types of projects have been defined by the Texas Transportation Commission in accordance with FTA guidelines, other laws and regulations, and in consultation with members of the public transportation industry, *see* 43 Texas Administrative Code §31.18. These include projects for local administration, capital projects, and operating assistance.

Examples of new public transportation service projects "beyond ADA" include:

1) providing paratransit services beyond minimum requirements (3/4 mile to either side of a fixed route) for a transit provider operating fixed route service;

2) making accessibility improvements to existing transit and intermodal stations not designated as key stations; for example, adding an elevator or ramps, detectable warnings, or improving signage;

3) building an accessible path to a bus stop that is currently inaccessible, including curbcuts, sidewalks, pedestrian signals, or other accessible features;

4) implementing technology improvements that enhance accessibility for persons with disabilities;

5) implementing "same day" paratransit services; and

6) otherwise facilitating or providing transportation services beyond ADA requirements, including transportation to and from employment and employment-related destinations.

Examples of new public transportation alternatives "beyond ADA" include:

1) purchasing vehicles and supporting accessible taxi, ride-sharing, and vanpooling programs;

2) supporting voucher programs for transportation services offered by human service providers;

3) supporting volunteer driver and aide programs;

4) acquiring transportation services by a contract, lease, or other arrangement;

5) supporting mobility management and coordination programs among public transportation providers and other human service agencies providing transportation;

6) new feeder service (transit service that provides access) to commuter rail, commuter bus, or intercity rail and intercity bus stations, for which complementary paratransit service is not required under the ADA;

7) new training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities. This includes travel instruction and travel training services; and

8) otherwise facilitating or providing new transportation services for persons with disabilities, including transportation to and from employment and employment-related destinations.

Review and Award Criteria: Each application will first be screened for completeness and timeliness. Proposals that are deemed incomplete or arrive after the deadline will not be reviewed. Proposals will be evaluated against a matrix of criteria and then prioritized. Subject to available funding, the department is placing no preconditions on the number or on the types of projects to be selected for funding. During the evaluation phase of each proposal, the department reserves the right to conduct formal negotiations pertaining to a proposer's initial responses, project, and prices. An approximate balance in funding awarded to the two types of projects, or an approximate geographic balance of selected projects, may be seen as appropriate, depending on the proposals that are received. The department may consider these additional criteria when recommending prioritized projects to the Texas Transportation Commission.

Key Dates and Deadlines:

May 1, 2007. Statewide Pre-Proposal Video Teleconference. Beginning at 1:30 p.m. **Central Daylight Time** at department district offices. Please notify the appropriate department district three days prior to the event if you plan to attend.

May 4, 2007. Written questions about the proposal are due.

May 11, 2007. Written responses to questions posted on the department's Public Transportation Division website at http://www.dot.state.tx.us/services/public_transportation/default.htm

June 22, 2007. Deadline for receipt of proposals is 5:00 p.m. Proposals prepared according to instructions in the RFP package must be received by Texas Department of Transportation, Public Transportation Division, 150 East Riverside Drive, Austin, Texas 78704 by 5:00 p.m.

July 13, 2007. Target date for the department to complete the evaluation, prioritization, and negotiation of proposals.

July 26, 2007. Target date for presentation of project selection recommendations to the Texas Transportation Commission for action.

September 1, 2007. Target date for all project grant agreements to be executed, with approved scopes of work and calendars of work.

To Obtain a Copy of the RFP: A copy of the RFP is available from the Public Transportation Division on-line under the heading "New Freedom Request for Proposal" at:

http://www.dot.state.tx.us/services/public_transportation/default.htm

Interested parties should download the Request for Proposal. For paper copies of the Request for Proposal, interested parties may also contact Kris Dudley, Texas Department of Transportation, Public Transportation Division, 125 East 11th Street, Austin, Texas 78701-2483, (512) 416-2829.

TRD-200701172

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: March 26, 2007



Public Notice - Aviation

Pursuant to Transportation Code, §21.111, and Title 43, Texas Administrative Code, §30.209, the Texas Department of Transportation con-

ducts public hearings to receive comments from interested parties concerning proposed approval of various aviation projects.

For information regarding actions and times for aviation public hearings, please go to the following web site:

www.txdot.gov/about_us/public_hearings_and_meetings/aviation.htm.

Or visit **www.txdot.gov**, click on Citizen, click on Public Hearings, and then click on Aviation.

Or contact Joyce Moulton, Aviation Division, 150 East Riverside, Austin, Texas 78704, (512) 416-4501 or 1-800-68-PILOT.

TRD-200701182

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: March 27, 2007

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How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Review of Agency Rules - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 30 (2005) is cited as follows: 30 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "30 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 30 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in an .html

version as well as a .pdf (portable document format) version through the Internet. For website subscription information, call the Texas Register at (800) 226-7199.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>. The following companies also provide complete copies of the TAC: Lexis-Nexis (1-800-356-6548), and West Publishing Company (1-800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 21, April 15, July 8, and October 7, 2005). If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).